

Laws 2015
First Session, Fifty-Second Legislature
Certificate of Authentication

CERTIFICATE OF AUTHENTICATION

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

I, **DIANNA J. DURAN**, Secretary of State of the State of New Mexico, do hereby certify that the printed laws contained herein are the true and correct copies of the **ENROLLED AND ENGROSSED LAWS** that were passed by the Fifty-Second State Legislature of New Mexico in its First Session, which convened on the 20th day of January, 2015, and adjourned on the 21st day of March, 2015, in Santa Fe, the Capital of the State, as said copies appear on file in my office.

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

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



Done in the City of Santa Fe,
the State Capital, this 27th day of
April, 2015.

A handwritten signature in cursive script, reading "Dianna J. Duran".

Dianna J. Duran
Secretary of State

LAWS 2015, CHAPTER 1

AN ACT

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FIFTY-SECOND LEGISLATURE, FIRST SESSION, 2015, 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 AND THE SENATE CHIEF CLERK'S OFFICE; DECLARING AN EMERGENCY.

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

Chapter 1 Section 1 Laws 2015

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-second legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, nine million three hundred fifty-two thousand seven hundred dollars (\$9,352,700) 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 \$415,800;

(2) per diem for members of the house of representatives \$693,000;

(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 \$6,800;

(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 \$10,450;

(5) salaries and employee benefits of senate employees \$2,913,300;

(6) salaries and employee benefits of house of representatives employees \$2,967,750;

(7) for expense of the senate not itemized above, six hundred forty-five thousand seven hundred dollars (\$645,700). No part of this item may be transferred to salaries or employee benefits;

(8) for expense of the house of representatives not itemized above, six hundred six thousand three hundred dollars (\$606,300). 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 ninety-three thousand six hundred dollars (\$1,093,600) 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-second 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 weekly 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 for the senate and by the speaker for the house.

Chapter 1 Section 2 Laws 2015

SECTION 2. BILLS AND OTHER PRINTED MATERIALS.--

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

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

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

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

B. Any person not listed in Subsection A of this section may secure a complete file of the bills, resolutions, joint resolutions, memorials and joint memorials of the legislature by depositing with the legislative council service the amount of seven hundred twenty-five dollars (\$725), which deposit shall be paid to the state treasurer to the credit of the legislative expense fund. Additional single copies of items of legislation shall be sold for two dollars (\$2.00) unless the director of the legislative council service shall, because of its length, assign a higher price not to exceed ten cents (\$.10) per page. Copies of a daily bill locator, other than those copies furnished to each member of the respective houses, shall be supplied by the legislative council service at a charge of two hundred fifty dollars (\$250) for the entire session.

Chapter 1 Section 3 Laws 2015

SECTION 3. LEGISLATIVE COUNCIL SERVICE.--There is appropriated from the general fund to the legislative council service for fiscal year 2016 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. Personal Services &	
Employee Benefits	\$ 4,673,700
Contractual Services	235,000
Other Costs	1,169,500
Total	\$ 6,078,200;

B. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, studies, staff and other necessary expenses for other interim committees and for other necessary legislative expenses for fiscal year 2016, eight hundred sixty-one thousand two hundred dollars (\$861,200); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;

C. for pre-session expenditures and for necessary contracts, furniture, equipment, supplies and personnel for interim session preparation, four hundred twenty-six thousand six hundred dollars (\$426,600); and

D. for a statewide legislative intern program, fifty thousand dollars (\$50,000).

Chapter 1 Section 4 Laws 2015

SECTION 4. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee for fiscal year 2016, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 3,778,300
Contractual Services	259,600
Other Costs	312,400
Total	\$ 4,350,300.

Chapter 1 Section 5 Laws 2015

SECTION 5. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for fiscal year 2016, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 1,188,063
Contractual Services	16,500
Other Costs	104,300
Total	\$ 1,308,863.

Chapter 1 Section 6 Laws 2015

SECTION 6. SENATE RULES COMMITTEE.--There is appropriated from the general fund to the legislative council service for the interim duties of the senate rules committee, twenty thousand five hundred dollars (\$20,500) for fiscal year 2016.

Chapter 1 Section 7 Laws 2015

SECTION 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2016 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	\$ 978,300
Contractual Services	128,000
Other Costs	72,500

Total \$ 1,178,800.

Chapter 1 Section 8 Laws 2015

SECTION 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2016 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	\$ 998,800
Contractual Services	154,800
Other Costs	60,300
Total	\$ 1,213,900.

Chapter 1 Section 9 Laws 2015

SECTION 9. LEGISLATIVE INFORMATION SYSTEM.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal years 2015 and 2016 for the legislative information system, seven hundred thirty-one thousand nine hundred dollars (\$731,900).

Chapter 1 Section 10 Laws 2015

SECTION 10. EXTENSIBLE MARKUP LANGUAGE DATABASE--SELF-PUBLICATION.--There is appropriated from the legislative cash balances to the legislative council service for the legislative share of the continued development required for the extensible markup language database, extensible markup language tagging and its use for legislative document systems and an integrated tagged database of the session laws and for the costs associated in collaborating with the New Mexico compilation commission on the ongoing development and expanding partnership role in the self-publication of the New Mexico statutes annotated, 1978, four hundred thousand dollars (\$400,000) for expenditure during fiscal years 2015 and 2016.

Chapter 1 Section 11 Laws 2015

~~[SECTION 11. CATEGORY TRANSFER.--Amounts set out in Sections 3, 4, 5, 7 and 8 of this act are provided for informational purposes only and may be freely transferred among categories.]~~ *LINE-ITEM VETO*

Chapter 1 Section 12 Laws 2015

SECTION 12. 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 13 Laws 2015

SECTION 13. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

House Bill 1, w/ec, partial veto

Approved January 26, 2015

LAWS 2015, CHAPTER 2

AN ACT

RELATING TO COUNTIES; PROVIDING FOR CERTAIN NOTICES BY ELECTRONIC MAIL.

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

Chapter 2 Section 1 Laws 2015

SECTION 1. Section 7-38-84 NMSA 1978 (being Laws 1973, Chapter 258, Section 124, as amended) is amended to read:

"7-38-84. NOTICES--MAILING.--

A. Any notice that is required to be made to a property owner by the Property Tax Code is effective if mailed by regular first class mail to the property owner's last address or to the address of any person other than the owner to whom the tax bill is to be sent as shown by the valuation records unless the provisions of that code require a different method of notification or mailing, in which case the notice is effective if given in accordance with the provisions of that code.

B. If a property owner notifies, in writing or by electronic mail, the county assessor or the county treasurer that the property owner wants to receive notices pursuant to the Property Tax Code by electronic mail rather than by regular first class mail, the county assessor or the county treasurer may thereafter provide such notices to the property owner using an electronic mail address provided by the property owner; provided that the notice is consistent with the requirements of the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. A property owner's request to receive notices by electronic mail shall be effective until revoked in writing or by electronic mail to the county assessor and the county treasurer. Wherever the Property Tax Code requires a method of notification or mailing done only

by the county assessor or county treasurer, other than by regular first class mail, the notice is effective if given in accordance with the provisions of that code.

C. An electronic mail address provided by a property owner pursuant to this section shall not be considered a valuation record pursuant to Section 7-38-19 NMSA 1978 and shall be retained by the county assessor as a confidential record that is not subject to inspection pursuant to the Inspection of Public Records Act."

Chapter 2 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 49, aa

Approved March 17, 2015

LAWS 2015, CHAPTER 3

AN ACT

RELATING TO THE DEPARTMENT OF PUBLIC SAFETY; REORGANIZING THE DEPARTMENT OF PUBLIC SAFETY; PLACING THE SPECIAL INVESTIGATIONS DIVISION AND THE MOTOR TRANSPORTATION DIVISION UNDER THE NEW MEXICO STATE POLICE DIVISION; CHANGING THE NAME OF THE TRAINING AND RECRUITING DIVISION TO THE NEW MEXICO LAW ENFORCEMENT ACADEMY; AMENDING THE DEFINITION OF "STATE POLICE MEMBER" IN THE PUBLIC EMPLOYEES RETIREMENT ACT; RECONCILING PENALTIES.

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

Chapter 3 Section 1 Laws 2015

SECTION 1. Section 9-19-4 NMSA 1978 (being Laws 1987, Chapter 254, Section 4, as amended) is amended to read:

"9-19-4. DEPARTMENT ESTABLISHED.--There is created in the executive branch the "department of public safety". The department shall be a cabinet department and shall consist of, but not be limited to:

- A. the New Mexico state police division;
- B. the New Mexico law enforcement academy;

- C. the technical support division;
- D. the administrative services division; and
- E. the information technology division."

Chapter 3 Section 2 Laws 2015

SECTION 2. Section 9-19-6 NMSA 1978 (being Laws 1987, Chapter 254, Section 6, as amended) is amended to read:

"9-19-6. 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) except as otherwise provided in the Department of Public Safety Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as the 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) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law with the administration or execution of which the secretary is responsible and to enforce those orders and instructions by appropriate administrative action in the court;

(6) conduct research and studies that will improve the operation of the department and examine other entities and functions of state government related to public safety for purposes of possible transfer to the department;

(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, if any;

(10) appoint, with the governor's consent, 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;

(11) appoint the director of the New Mexico law enforcement academy, subject to the approval of the New Mexico law enforcement academy board;

(12) give bond in the penal sum of twenty-five thousand dollars (\$25,000) and require directors to each give bond in the penal sum of ten thousand dollars (\$10,000), conditioned upon the faithful performance of duties as provided in the Surety Bond Act, with the department paying the cost of such bonds; and

(13) require performance bonds of such employees and officers as the secretary deems necessary as provided in the Surety Bond Act, with the department paying the costs of such bonds.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including but not limited to 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 and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions. No rule or regulation promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary unless otherwise provided by statute. Nothing in this section erodes or changes the powers and duties of the law enforcement academy board as set forth in Sections 29-7-3 and 29-7-4 NMSA 1978. Unless otherwise provided by statute, no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the 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 regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation in the state 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. All rules and regulations shall be filed in accordance with the State Rules Act."

Chapter 3 Section 3 Laws 2015

SECTION 3. Section 9-19-7 NMSA 1978 (being Laws 1987, Chapter 254, Section 7, as amended) is amended to read:

"9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

A. The organizational units of the department and the officers of those units specified by law shall have all 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, who shall retain the final decision-making authority and responsibility for the administration of any such laws as provided in Subsection B of Section 9-19-6 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.

B. The New Mexico state police division shall consist of the commissioned officers and civilian personnel of the New Mexico state police and such other personnel as may be assigned by the secretary or by the governor pursuant to an executive order

as authorized in the Department of Public Safety Act. The New Mexico state police division shall also include:

(1) the special investigations unit, which shall consist of the enforcement personnel of the former special investigations division and civilian personnel as may be assigned by the secretary or by the governor pursuant to an executive order as authorized in the Department of Public Safety Act. The unit is responsible for the enforcement of the New Mexico Bingo and Raffle Act and the Liquor Control Act;

(2) the training and recruiting bureau, which shall consist of the personnel of the New Mexico state police training division and all civilian personnel and functions of the department as the secretary may transfer to the bureau;

(3) the motor transportation police bureau, which shall consist of the enforcement and civilian personnel of the former motor transportation division. The bureau is responsible for enforcing the Motor Carrier Act, the Motor Transportation Act, the Motor Vehicle Code and the Criminal Code; and

(4) civilian employees of the former motor transportation division or the former special investigations division, who shall be subject to the provisions of the Personnel Act.

C. The New Mexico law enforcement academy shall consist of personnel of the New Mexico law enforcement academy and such other functions as the secretary may transfer to it.

D. The technical support division shall consist of functions such as crime laboratory and records.

E. The administrative services division shall consist of the administrative services as the secretary deems necessary.

F. The information technology division shall consist of such functions as computer and technology support as the secretary deems necessary."

Chapter 3 Section 4 Laws 2015

SECTION 4. Section 29-2-1.1 NMSA 1978 (being Laws 1987, Chapter 254, Section 18, as amended) is amended to read:

"29-2-1.1. DEFINITIONS.--As used in Chapter 29 NMSA 1978:

A. "chief" or "chief of the state police" means the director of the New Mexico state police division of the department;

B. "commission" means the public safety advisory commission;

C. "department" means the department of public safety;

D. "member of the New Mexico state police" means a commissioned officer of the New Mexico state police, including an officer who is certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division;

E. "New Mexico law enforcement academy" or "academy" means a division of the department established pursuant to the Law Enforcement Training Act;

F. "New Mexico state police" means the New Mexico state police division of the department; and

G. "secretary" means the secretary of public safety."

Chapter 3 Section 5 Laws 2015

SECTION 5. Section 29-2-3 NMSA 1978 (being Laws 1941, Chapter 147, Section 3, as amended) is amended to read:

"29-2-3. NEW MEXICO STATE POLICE--ORGANIZATION.--The New Mexico state police shall consist of a chief and such patrol officers, sergeants, lieutenants and captains as the secretary may deem advisable within the limits of the funds appropriated for the New Mexico state police; provided that the number of captains, lieutenants and sergeants shall not exceed twenty-five percent of the total number of the police, exclusive of the chief; but this requirement shall not be interpreted so as to require the demotion of any member of the previous state police division, the former motor transportation division or the former special investigations division."

Chapter 3 Section 6 Laws 2015

SECTION 6. Section 29-2-4 NMSA 1978 (being Laws 1941, Chapter 147, Section 4, as amended) is amended to read:

"29-2-4. APPOINTMENTS--REMOVAL.--The chief of the New Mexico state police shall be appointed by the secretary. All patrol officers and other officers and all civilian employees shall be appointed by the chief."

Chapter 3 Section 7 Laws 2015

SECTION 7. Section 29-2-4.1 NMSA 1978 (being Laws 1979, Chapter 202, Section 16) is amended to read:

"29-2-4.1. RULES.--The secretary shall promulgate rules governing employment and operating practices and related matters for employees of the New Mexico state police."

Chapter 3 Section 8 Laws 2015

SECTION 8. Section 29-2-6 NMSA 1978 (being Laws 1941, Chapter 147, Section 6, as amended) is amended to read:

"29-2-6. QUALIFICATIONS OF MEMBERS.--

A. Members of the New Mexico state police, except the chief, shall:

- (1) at the time of their appointment, be citizens of the United States;
- (2) at the time of their appointment, have reached twenty-one years of age;
- (3) except as otherwise provided in Subsection B of this section, at the time of their appointment, have completed at least sixty hours of college credit or have had two years of military or law enforcement service. This requirement shall not apply to officers who are certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division;
- (4) be of good moral character and not have been convicted of a felony or infamous crime in the courts of this state or other state or any country or in the federal courts; and
- (5) pass a physical examination that the New Mexico state police may require.

B. Notwithstanding the requirement of Paragraph (3) of Subsection A of this section, the chief may appoint a member of the New Mexico state police who has at least thirty hours of college credit, and the chief shall determine an appropriate time period after appointment for the member to complete the additional thirty hours of college credit required. This provision shall not apply to officers who are certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division."

Chapter 3 Section 9 Laws 2015

SECTION 9. Section 29-2-7 NMSA 1978 (being Laws 1941, Chapter 147, Section 7, as amended) is amended to read:

"29-2-7. COMMISSIONED OFFICERS--APPLICATION--PROCEDURE.--The New Mexico state police shall cause all applicants for the position of commissioned

officer to submit a written detailed application on forms as the secretary shall prescribe, and the secretary shall cause an investigation to be made of all applicants, subsequent to their taking the examination referred to in Section 29-2-8 NMSA 1978, for the purpose of determining the moral character, general reputation and fitness of any applicant. An applicant who is found unfit as a result of the investigation shall be disqualified for employment. The secretary shall by rule prescribe the physical qualifications of applicants and shall require each applicant to submit to a physical examination by doctors as the secretary shall designate. An applicant who does not meet the physical requirements prescribed by the secretary shall be disqualified for employment. Inasmuch as laws have been enacted providing for retirement, disability and life insurance funds for members of the New Mexico state police, it is the intention of the legislature that no applicants will be appointed who are in such physical condition that the cost of such protection will thereby be increased."

Chapter 3 Section 10 Laws 2015

SECTION 10. Section 29-2-8 NMSA 1978 (being Laws 1941, Chapter 147, Section 8, as amended) is amended to read:

"29-2-8. NEW MEXICO STATE POLICE--COMMISSIONED OFFICERS--EXAMINATION.--The New Mexico state police shall conduct a written examination of all applicants for the position of commissioned officer for the purpose of determining their mental qualifications and knowledge of the laws of New Mexico and their ability to render assistance in case of accidents upon the public highways. No applicant shall be appointed a member of the New Mexico state police, other than the chief, until the applicant has passed the written examination with a grade of not less than seventy-two percent. This section shall not apply to officers who are certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division."

Chapter 3 Section 11 Laws 2015

SECTION 11. Section 29-2-9 NMSA 1978 (being Laws 1941, Chapter 147, Section 9, as amended) is amended to read:

"29-2-9. PROBATIONARY PERIOD--LENGTH--PERMANENT COMMISSION--SALARY.--

A. All new appointments as members of the New Mexico state police shall be for a probationary period of two years. During the probationary period, the new members may be removed or suspended at the discretion of the chief. At the end of two years of satisfactory service and upon recommendation of the chief and with concurrence of the secretary, the appointee may receive a permanent commission as a member of the New Mexico state police. However, the probationary period may be extended beyond a two-year period upon the recommendation of the chief with the concurrence of the secretary. This subsection shall not apply to officers who are

certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division. Members who are on probation on July 1, 2015 shall complete the probationary period under which they were hired.

B. The salaries of all members of the New Mexico state police, probationary and permanent, and that of the chief shall be fixed by the secretary."

Chapter 3 Section 12 Laws 2015

SECTION 12. Section 29-2-10 NMSA 1978 (being Laws 1941, Chapter 147, Section 10, as amended) is amended to read:

"29-2-10. PROMOTIONS.--All promotions in the New Mexico state police to the rank of sergeant shall be made after written examinations. All promotions above the rank of sergeant shall be made by the chief after concurrence and approval by the secretary. The ranks of sergeant, lieutenant and captain shall be permanent unless established as an exempt rank by the chief with the concurrence of the secretary. All promotions above the rank of captain are by executive appointment of the chief with concurrence of the secretary, and those persons shall serve at the pleasure of the chief with the concurrence of the secretary."

Chapter 3 Section 13 Laws 2015

SECTION 13. Section 29-2-12 NMSA 1978 (being Laws 1941, Chapter 147, Section 12, as amended) is amended to read:

"29-2-12. OATH.--All members of the New Mexico state police and the secretary shall take the oath of office required of all state officials."

Chapter 3 Section 14 Laws 2015

SECTION 14. Section 29-2-14 NMSA 1978 (being Laws 1971, Chapter 87, Section 1, as amended) is amended to read:

"29-2-14. UNAUTHORIZED WEARING OF UNIFORM OR BADGE--
UNAUTHORIZED MARKING OF MOTOR VEHICLE--PENALTY.--

A. Unauthorized wearing of uniform or badge consists of the wearing or requiring the wearing, without authorization by the secretary, of a uniform or badge or both whose material, color or design, or any combination of them, is such that the wearer appears to be a member of the New Mexico state police.

B. Unauthorized marking of motor vehicle consists of the marking, using, possessing or owning or requiring the marking or using, without authorization by the secretary, of a motor vehicle whose insignia, color or equipment, or any combination of

them, is such that the motor vehicle appears to be a New Mexico state police motor vehicle.

C. Whoever commits unauthorized wearing of uniform or badge or unauthorized marking of motor vehicle is guilty of a petty misdemeanor."

Chapter 3 Section 15 Laws 2015

SECTION 15. Section 29-2-16 NMSA 1978 (being Laws 1941, Chapter 147, Section 15, as amended) is amended to read:

"29-2-16. STATE POLICE SCHOOL--COMPENSATION.--

A. Before entering upon the appointee's duties, every appointee to the New Mexico state police shall be required to attend a school of instruction approved by the secretary. A uniform course of instruction shall be given all trainees governing the operation, maintenance and temporary roadside repair of motor vehicles, the laws of the state that the appointee may be called on to enforce and other instruction as the secretary may require. Attendance at the school or other course of instruction as may be prescribed renders the person attending subject to the control of the New Mexico state police during attendance.

B. The secretary may, within the budgetary means of the New Mexico state police, allow subsistence and compensation for trainees attending the school of instruction at the New Mexico state police headquarters or elsewhere.

C. This section shall not apply to members of the former motor transportation division or the former special investigations division."

Chapter 3 Section 16 Laws 2015

SECTION 16. Section 29-2-18 NMSA 1978 (being Laws 1941, Chapter 147, Section 17, as amended) is amended to read:

"29-2-18. STATE POLICE CHIEF AND OTHER MEMBERS--POWERS AND DUTIES.--

A. The chief and other members of the New Mexico state police, when duly commissioned and sworn under the provisions of Sections 29-2-1 through 29-2-29 NMSA 1978, shall have the following powers and shall be:

(1) conservators of the peace within the state with full power to apprehend, arrest and bring before the proper court all law violators within the state;

(2) ex-officio deputies and agents of all the officers and departments of the taxation and revenue department and of the officers and

departments within the state charged with the registration of motor vehicles, the issuance of licenses to operators of motor vehicles and of the officers and departments of the state charged with the regulation and control of motor vehicles operated upon the public highways for hire in the transportation of either passengers or property; and

(3) charged with the enforcement of all laws of New Mexico regulating the use of highways.

B. Upon request of any officer or agency of the state charged with the duty of enforcing any law of the state that is made to the secretary, one or more members of the

New Mexico state police may be temporarily designated specifically to enforce the provisions of such law."

Chapter 3 Section 17 Laws 2015

SECTION 17. Section 29-2-19 NMSA 1978 (being Laws 1977, Chapter 257, Section 34, as amended) is amended to read:

"29-2-19. CHIEF--QUALIFICATIONS--REMOVAL.--

A. The chief is the executive officer of the New Mexico state police and is subject to the control, supervision and direction of the secretary. The appointee, at the time of appointment as chief by the secretary, shall have been a member of the New Mexico state police holding a permanent commission for ten continuous years immediately prior to the appointment and shall have served not less than three years in a supervisory capacity. Appointment shall be made with the consent of the senate.

B. The chief shall serve at the pleasure of the secretary.

C. The seniority and retirement rating of the chief shall be continuous as for any other member.

D. The chief shall maintain an office in Santa Fe in such quarters as are provided by the New Mexico state police for that purpose."

Chapter 3 Section 18 Laws 2015

SECTION 18. Section 29-2-20 NMSA 1978 (being Laws 1941, Chapter 147, Section 19, as amended) is amended to read:

"29-2-20. DISTRICTS.--The New Mexico state police chief, subject to the control of the secretary, may divide the state into districts and may designate home stations for the members of the New Mexico state police."

Chapter 3 Section 19 Laws 2015

SECTION 19. Section 29-2-22 NMSA 1978 (being Laws 1941, Chapter 147, Section 21, as amended) is amended to read:

"29-2-22. RULEMAKING POWER--RULES TO ESTABLISH STANDARDS OF CONDUCT.--The secretary has authority to make and promulgate rules and regulations for the purpose of carrying out the provisions of Sections 29-2-1 through 29-2-29 NMSA 1978. The secretary shall establish by rules, from time to time, standards of conduct for members of the New Mexico state police, and a copy of the rules shall be delivered to each member and displayed at each station of the department. The rules shall be filed pursuant to the State Rules Act."

Chapter 3 Section 20 Laws 2015

SECTION 20. Section 29-2-24 NMSA 1978 (being Laws 1941, Chapter 147, Section 25, as amended) is amended to read:

"29-2-24. WAIVER.--The provisions of Sections 29-2-6 through 29-2-8 NMSA 1978 may be waived by the secretary with regard to plainclothes or special investigators and other employees not regularly uniformed."

Chapter 3 Section 21 Laws 2015

SECTION 21. Section 29-2-25 NMSA 1978 (being Laws 1947, Chapter 38, Section 1, as amended) is amended to read:

"29-2-25. ACCIDENT REPORTS.--When any member of the New Mexico state police investigates a motor vehicle accident, the member shall make a written report of the findings on appropriate forms furnished by the New Mexico state police, the original of which report shall be filed in the office of the New Mexico state police and shall be furnished to any person upon written application accompanied by a fee as set by the secretary for the photocopy of each surface of all documents comprising a report."

Chapter 3 Section 22 Laws 2015

SECTION 22. Section 29-7-3 NMSA 1978 (being Laws 1979, Chapter 202, Section 42, as amended) is amended to read:

"29-7-3. NEW MEXICO LAW ENFORCEMENT ACADEMY BOARD.--

A. There is created the "New Mexico law enforcement academy board".

B. The academy shall be controlled and supervised by policy set by the board. The board shall be composed of the attorney general, who shall serve

automatically by reason of office and serve as chair of the board, and eight members who are qualified electors to be appointed by the governor and confirmed by the senate. An appointed board 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.

C. Appointments to the board shall be for terms of four years or less made in such manner that the terms of not more than two members expire on July 1 of each year. At all times, the board shall have represented on it, as members, one municipal police chief, one sheriff, one state police officer, one attorney who is currently employed in a district attorney's office, one certified police chief of a New Mexico Indian tribe or pueblo, one certified New Mexico police officer holding the rank of sergeant or below and two citizen-at-large members, neither of whom shall be a police officer or retired police officer or have familial or financial connections to a police officer or any agency or department for which a police officer works. Vacancies shall be filled by the governor for the unexpired term.

D. 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."

Chapter 3 Section 23 Laws 2015

SECTION 23. Section 29-7-5.1 NMSA 1978 (being Laws 1979, Chapter 202, Section 45, as amended) is amended to read:

"29-7-5.1. REMOVAL OF DIRECTOR.--The director may be removed by the board in accordance with the procedures provided in Section 29-2-11 NMSA 1978 for removal of members of the New Mexico state police holding permanent commissions. In the case of removal proceedings for the director under that section, "commission", as used in Subsections C and D of Section 29-2-11 NMSA 1978, shall be construed to mean the New Mexico law enforcement academy board."

Chapter 3 Section 24 Laws 2015

SECTION 24. Section 29-7-6.1 NMSA 1978 (being Laws 1993, Chapter 255, Section 7) is amended to read:

"29-7-6.1. COUNTY SHERIFFS--TRAINING REQUIREMENT.--

A. 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.

B. 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.

C. 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 3 Section 25 Laws 2015

SECTION 25. Section 29-7-7 NMSA 1978 (being Laws 1981, Chapter 114, Section 6, as amended) is amended to read:

"29-7-7. DEFINITIONS.--For the purpose of the Law Enforcement Training Act:

A. "academy" means the New Mexico law enforcement academy;

B. "basic law enforcement training" means a course consisting of not less than four hundred hours of instruction in basic law enforcement training as required by the Law Enforcement Training Act;

C. "board" means the New Mexico law enforcement academy board;

D. "conviction" means an adjudication of guilt or a plea of no contest and includes convictions that are suspended or deferred;

E. "director" means the director of the division;

F. "division" means the New Mexico law enforcement academy of the department of public safety;

G. "in-service law enforcement training" means a course of instruction required of all certified peace officers and designed to train and equip all police officers in the state with specific law enforcement skills and to ensure the continuing development of all police officers in the state. The training and instruction shall be kept current and may be conducted on a regional basis at the discretion of the director;

H. "police officer" means any commissioned employee of a law enforcement agency that is part of or administered by the state or any political subdivision of the state, and includes any employee of a missile range civilian police department who is a graduate of a recognized certified regional law enforcement training facility and who is currently certifiable by the academy, which employee is responsible for the prevention and detection of crime or the enforcement of the penal, or traffic or highway laws of this state. The term specifically includes deputy sheriffs. Sheriffs are eligible to attend the academy and are eligible to receive certification as provided in the Law Enforcement Training Act. As used in this subsection,

"commissioned" means an employee of a law enforcement agency who is authorized by a sheriff or chief of police to apprehend, arrest and bring before the court all violators within the state; and

I. "certified regional law enforcement training facility" means a law enforcement training facility within the state certified by the director, with the approval of the academy's board of directors, that offers basic law enforcement training and in-service law enforcement training that is comparable to or exceeds the standards of the programs of the academy."

Chapter 3 Section 26 Laws 2015

SECTION 26. Section 29-7-12 NMSA 1978 (being Laws 1981, Chapter 114, Section 12, as amended) is amended to read:

"29-7-12. CHARGES--FUND CREATED--USE.--

A. The division shall not charge local public bodies or New Mexico Indian tribes or pueblos for any expenses associated with providing basic law enforcement training programs to applicants for certification seeking commission pursuant to the provisions of the Law Enforcement Training Act. The division may charge state agencies and institutions and federal agencies and shall charge civilian participants for the cost of providing basic law enforcement training programs, which charges shall be specified in a tuition and fee schedule promulgated by the board and shall not exceed the actual cost of providing the training programs.

B. The division may charge state agencies and institutions, local public bodies, New Mexico Indian tribes and pueblos and federal agencies and shall charge civilian participants for the cost of providing advanced training programs, which charges shall be specified in a tuition and fee schedule promulgated by the board and shall not exceed the actual cost of providing the training programs.

C. The division may charge for the rental or other use of the academy's facility, personnel and equipment, which charges shall be specified in a tuition and fee schedule promulgated by the board and shall not exceed the actual cost of the facility, personnel or equipment.

D. The "law enforcement training and recruiting fund" is created in the state treasury. Money received by the division for activities specified in this section shall be deposited in the fund. The department of public safety shall administer the fund, and money in the fund is appropriated to the division to offset the operational costs of the division. Money in the fund shall be nonreverting. Money shall be expended on warrants issued by the secretary of finance and administration upon vouchers signed by the secretary of public safety or the secretary of public safety's authorized representative.

E. As used in this section, "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions."

Chapter 3 Section 27 Laws 2015

SECTION 27. Section 60-3A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 1, as amended) is amended to read:

"60-3A-1. SHORT TITLE.--Chapter 60, Articles 3A, 5A, 6A, 6B, 6C, 6E, 7A, 7B and 8A NMSA 1978 may be cited as the "Liquor Control Act"."

Chapter 3 Section 28 Laws 2015

SECTION 28. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 3, as amended) is amended to read:

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

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters bearing the federal internal revenue strip stamps or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half percent alcohol, but excluding medicinal bitters;

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

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

D. "club" means:

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

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

(b) has been granted an exemption by the United States from the payment of the federal income tax as a club under the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended, or, if the applicant has not

operated as a club for a sufficient time to be eligible for the income tax exemption, it must execute and file with the director a sworn letter of intent declaring that it will, in good faith, apply for an income tax exemption as soon as it is eligible; or

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

E. "commission" means the secretary of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

T. "restaurant" means an establishment having a New Mexico resident as a proprietor or manager that is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided that "restaurant" does not

include establishments as defined in rules promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;

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

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

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

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

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

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

AA. "winer" means a winegrower; and

BB. "winery" means a facility in which a winegrower manufactures and stores wine."

Chapter 3 Section 29 Laws 2015

SECTION 29. Section 60-4B-4.1 NMSA 1978 (being Laws 1993, Chapter 329, Section 1) is recompiled as Section 60-3A-6.1 NMSA 1978 and is amended to read:

"60-3A-6.1. LOCAL LAW ENFORCEMENT--DEPARTMENT OF PUBLIC SAFETY--REPORTING REQUIREMENTS--AUTHORITY TO REQUEST INVESTIGATIONS.--

A. Within thirty days following the date of issuance of a citation pursuant to the provisions of the Liquor Control Act, the department of public safety or the law enforcement agency of a municipality or county shall report alleged violations of that act to the alcohol and gaming division of the regulation and licensing department.

B. The director of the alcohol and gaming division of the regulation and licensing department may request the investigators of the department of public safety to investigate licensees or activities that the director has reasonable cause to believe are in violation of the Liquor Control Act."

Chapter 3 Section 30 Laws 2015

SECTION 30. Section 60-4B-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 7) is recompiled as Section 60-3A-8.1 NMSA 1978 and is amended to read:

"60-3A-8.1. INVESTIGATIVE AUTHORITY AND POWERS.--

A. For the purpose of enforcing the provisions of the Liquor Control Act, the director is authorized to examine and to require the production of pertinent records, books, information or evidence, to require the presence of any person and to require the person to testify under oath concerning the subject matter of the inquiry and to make a permanent record of the proceedings.

B. The director is vested with the power to issue subpoenas. In no case shall a subpoena be made returnable less than five days from the date of service.

C. Any subpoena issued by the director shall state with reasonable certainty the nature of the evidence required to be produced, the time and place of the hearing, the nature of the inquiry or investigation and the consequences of failure to obey the subpoena, and shall bear the seal of the department and be attested to by the director.

D. After service of a subpoena upon a person, if the person neglects or refuses to appear or produce records or other evidence in response to the subpoena or neglects or refuses to give testimony, as required, the director may invoke the aid of the New Mexico district courts in the enforcement of the subpoena. In appropriate cases, the court shall issue its order requiring the person to appear and testify or produce the person's books or records and may, upon failure of the person to comply with the order, punish the person for contempt.

E. The director may exchange identification records and information with law enforcement agencies for official use. Identification records received from the United States department of justice, including identification records based on fingerprints, shall be used only to effectuate the licensing purposes and provisions of the Liquor Control Act. The department shall not disseminate such information except to other law enforcement agencies for official use only.

F. For the purposes of this section, "director" means the director of the alcohol and gaming division of the regulation and licensing department."

Chapter 3 Section 31 Laws 2015

SECTION 31. Section 65-1-2 NMSA 1978 (being Laws 1978, Chapter 19, Section 1, as amended) is amended to read:

"65-1-2. DEFINITIONS.--As used in the Motor Transportation Act:

A. "combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers or semitrailers converted to trailers by means of a converter gear;

B. "combination gross vehicle weight" means the sum total of the gross vehicle weights of all units of a combination;

C. "commercial motor carrier vehicle" means a self-propelled or towed vehicle, other than special mobile equipment, used on public highways in commerce to transport passengers or property when the vehicle:

(1) is operated interstate and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of four thousand five hundred thirty-six kilograms, or ten thousand one pounds or more; or is operated only in intrastate commerce and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of twenty-six thousand one or more pounds;

(2) is designed or used to transport more than eight passengers, including the driver, and is used to transport passengers for compensation;

(3) is designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for compensation; or

(4) is used to transport hazardous materials of the type or quantity requiring placarding under rules prescribed by applicable federal or state law;

D. "converter gear" means any assemblage of one or more axles with a fifth wheel mounted thereon, designed for use in a combination to support the front end of a semitrailer but not permanently attached thereto. A "converter gear" shall not be considered a vehicle as that term is used in Chapter 66 NMSA 1978, but its weight shall be included in declared gross weight;

E. "declared gross weight" means maximum gross vehicle weight or combination gross vehicle weight at which a vehicle or combination will be operated during the registration period as declared by the registrant for registration and fee purposes. The vehicle or combination shall have only one "declared gross weight" for all operating considerations;

F. "department", without modification, means the department of public safety, the secretary of public safety or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

G. "director" means the secretary;

H. "division" means the New Mexico state police division of the department;

I. "evidence of registration" means documentation issued by the taxation and revenue department identifying a motor carrier vehicle as being registered with New Mexico or documentation issued by another state pursuant to the terms of a multistate agreement on registration of vehicles to which this state is a party identifying a motor carrier vehicle as being registered with that state; provided that evidence of payment of the weight distance tax and permits obtained under either the Special Fuels Supplier Tax Act or Trip Tax Act are not "evidence of registration";

J. "field enforcement" or "in the field" means patrolling of the highway, stopping of commercial motor carrier vehicles or establishing ports of entry and roadblocks for the purpose of checking motor carriers and includes similar activities;

K. "freight trailer" means any trailer, semitrailer or pole trailer drawn by a truck tractor or road tractor and any trailer, semitrailer or pole trailer drawn by a truck that has a gross vehicle weight of more than twenty-six thousand pounds, but the term does not include house trailers, trailers of less than one-ton carrying capacity used to transport animals or fertilizer trailers of less than three thousand five hundred pounds empty weight;

L. "gross vehicle weight" means the weight of a vehicle without load plus the weight of any load thereon;

M. "motor carrier" means any person that owns, controls, operates or manages any motor vehicle with gross vehicle weight of twelve thousand pounds or more that is used to transport persons or property on the public highways of this state;

N. "motor vehicle" means any vehicle or device that is propelled by an internal combustion engine or electric motor power that is used or may be used on the public highways for the purpose of transporting persons or property and includes any connected trailer or semitrailer;

O. "one-way rental fleet" means two or more vehicles each having a gross vehicle weight of under twenty-six thousand one pounds and rented to the public without a driver;

P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, 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 an agency, department or instrumentality; "person" also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

Q. "properly registered" means bearing the lawfully issued and currently valid evidence of registration of this or another jurisdiction, regardless of the owner's residence, except in those cases where the evidence has been procured by misrepresentation or fraud;

R. "public highway" means every 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;

S. "secretary" means the secretary of public safety and, except for the purposes of Section 65-1-33 NMSA 1978, also includes a deputy secretary and any division director delegated by the secretary;

T. "state" or "jurisdiction" means a state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, a foreign country or a state or province of a foreign country; and

U. "utility trailer" means any trailer, semitrailer or pole trailer and includes house trailers that exceed neither eight feet in width nor forty feet in length, but does not include freight trailers, trailers of less than one-ton carrying capacity used to transport animals or fertilizer trailers of less than three thousand five hundred pounds empty weight."

Chapter 3 Section 32 Laws 2015

SECTION 32. Section 65-1-35 NMSA 1978 (being Laws 1967, Chapter 97, Section 44, as amended) is amended to read:

"65-1-35. DUPLICATE RECORDS.--If the New Mexico state police division in carrying out any of the powers and duties granted or imposed on it by the Motor Transportation Act needs duplicates of any records not transferred to it by that act, all departments, agencies and commissions of this state shall, upon request, make the records available to the division for copying."

Chapter 3 Section 33 Laws 2015

SECTION 33. Section 66-1-4.2 NMSA 1978 (being Laws 1990, Chapter 120, Section 3, as amended) is amended to read:

"66-1-4.2. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels, except scooters and similar devices;

B. "bureau" means the traffic safety bureau of the department of transportation;

C. "bus" means every motor vehicle designed and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation; and

D. "business district" means the territory contiguous to and including a highway when within any three hundred feet along the highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings that occupy at least fifty percent of the frontage on one side or fifty percent of the frontage collectively on both sides of the highway."

Chapter 3 Section 34 Laws 2015

SECTION 34. Section 66-3-302 NMSA 1978 (being Laws 1978, Chapter 35, Section 78, as amended) is amended to read:

"66-3-302. CARAVAN FEE.--

A. A person or an employee, agent or representative of that person shall not use the highways of New Mexico for the transportation of any vehicle, regardless of whether the vehicle is registered in another state or whether the vehicle is transported on its own wheels or on another vehicle or by being drawn or towed behind another, if the vehicle is transported by any person or the agents or employees of that person engaged in the business of transporting vehicles or if the vehicle is being transported for the purpose of delivery to any purchaser of the vehicle on a sale or contract of sale previously made, unless the vehicle carries:

(1) a valid New Mexico registration plate;

(2) a valid dealer's plate issued by the department;

(3) a special permit for the use of the highways of this state for the transportation of the vehicle in the manner in which the vehicle is being transported, which has first been obtained and the fee paid as specified in this section; or

(4) a valid temporary transportation permit issued under Subsection B of Section 66-3-6 NMSA 1978.

B. Special permits for the use of the highways of this state for the transportation of such vehicles shall be issued by the department of public safety upon application on the form prescribed by the department of public safety and upon payment of a fee of ten dollars (\$10.00) for each vehicle transported by use of its own power and a fee of seven dollars (\$7.00) for each vehicle carried in or on another vehicle or towed or drawn by another vehicle and not transported in whole or in part by the use of its own power. A fee imposed pursuant to this section may be referred to as a "caravan fee". Every permit shall show upon its face the registration number assigned to each vehicle, the name and address of the owner, the manner of transportation authorized and a description of the vehicle registered, including the engine number. The permit shall be carried at all times by the person in charge of the vehicle. A suitable tag or placard for each vehicle may be issued by the department of public safety and, if issued, shall be at all times displayed on each vehicle being transported. The permit, tag or placard shall not be used upon or in connection with the transportation of any vehicle other than the one for which the permit, tag or placard is issued.

C. A caravan fee shall not apply to the transportation of vehicles carried on another vehicle for the operation of which a weight distance tax is paid, nor shall the vehicle transported be required to carry a registration plate or temporary transportation permits. The New Mexico state police division of the department of public safety is authorized to impound any vehicle transported in violation of the Motor Transportation Act until a proper permit has been secured and any fine levied has been paid."

Chapter 3 Section 35 Laws 2015

SECTION 35. Section 66-7-314 NMSA 1978 (being Laws 1978, Chapter 35, Section 418, as amended) is amended to read:

"66-7-314. MOVEMENT OF HAZARDOUS VEHICLE--ESCORT MAY BE REQUIRED.--When, in the judgment of the New Mexico state police division of the department of public safety or local authorities with respect to highways under their jurisdiction, the movement of any vehicle is deemed a hazard to traffic upon a highway over which the vehicle is to travel, the granting of permission for the movement of the vehicle may be conditioned upon a special escort accompanying the hazardous vehicle."

Chapter 3 Section 36 Laws 2015

SECTION 36. Section 66-7-411 NMSA 1978 (being Laws 1978, Chapter 35, Section 482, as amended) is amended to read:

"66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES.--

A. A police officer with the New Mexico state police division of the department of public safety, having reason to believe that the weight of a vehicle and

load is unlawful, may require the driver to stop and submit to weighing of the vehicle and load by means of either portable or stationary scales and may require the vehicle to be driven to the nearest scales approved by the department of public safety if the scales are within five miles. A police officer shall not require a driver to weigh a vehicle on a private scale.

B. When a police officer with the New Mexico state police division of the department of public safety or a transportation inspector, upon weighing a vehicle or combination, determines that the gross vehicle weight or combination gross vehicle weight exceeds the maximum authorized by Sections 66-7-409 and 66-7-410 NMSA 1978, the officer or inspector shall require the driver or owner of the vehicle or combination to unload that portion of the load necessary to decrease the gross vehicle weight or combination gross vehicle weight to the authorized maximum.

C. A driver of a vehicle who fails or refuses to stop and submit the vehicle and load to weighing or who fails or refuses, when directed by a duly authorized police officer with the New Mexico state police division of the department of public safety or a transportation inspector, upon a weighing of the vehicle, to unload the vehicle and otherwise comply with the provisions of this section is guilty of a misdemeanor.

D. A shipper or a person loading the vehicle who intentionally overloads a vehicle that the shipper or person has reason to believe will travel in that condition upon a public highway is guilty of a misdemeanor and shall be fined in accordance with Section 66-8-116.1 NMSA 1978.

E. In all cases of violations of weight limitations, the penalties shall be assessed and imposed in accordance with Section 66-8-116.1 NMSA 1978."

Chapter 3 Section 37 Laws 2015

SECTION 37. Section 66-7-412 NMSA 1978 (being Laws 1959, Chapter 247, Section 1, as amended) is amended to read:

"66-7-412. SPECIAL FARM PERMITS.--The New Mexico state police division of the department of public safety shall have the authority to issue special permits at all ports of entry where registration stations or places where inspection and registration services are maintained by the New Mexico state police division to all implements of husbandry using the highways, including farm tractors, and to the instrumentalities or vehicles that may be carrying the implements of husbandry, including farm tractors, when the securing of these permits is required by law."

Chapter 3 Section 38 Laws 2015

SECTION 38. Section 66-7-413.2 NMSA 1978 (being Laws 1989, Chapter 291, Section 1, as amended) is amended to read:

"66-7-413.2. ENGINEERING INVESTIGATIONS FOR VEHICLES IN EXCESS OF ONE HUNDRED SEVENTY THOUSAND POUNDS.--

A. All vehicles with a gross vehicle weight in excess of one hundred seventy thousand pounds shall require a special permit as provided for in Section 66-7-413 NMSA 1978, and no such permit shall be issued unless:

(1) an engineering investigation and review have been conducted to:

(a) establish whether the move could be made without visible or documented damages to the portion of road or bridges upon which the move is to be made;

(b) establish whether the move could be made without visible or documented damages to any private facilities along the road upon which the move is to be made; and

(c) estimate the cost for any necessary modifications the move may cause; and

(2) when required, the applicant has submitted to the New Mexico state police division of the department of public safety and the local highway authorities all pertinent information requested of the applicant by the New Mexico state police division. If the submitted data are not acceptable to the department of transportation, the applicant will be advised by the New Mexico state police division that engineering investigations will be conducted by the department of transportation, and the cost incurred by the department of transportation will be paid by the applicant as an added cost to the permit fee.

B. The New Mexico state police division shall adopt the necessary rules and regulations for the development of data for an investigation to determine whether to issue any special permit pursuant to Section 66-7-413 NMSA 1978.

C. The applicant or the applicant's employer shall pay the costs for any modifications to the road, bridges or private facilities along the road that the New Mexico state police division has determined are necessary for the issuance of the special permit and the costs for any damages to the road or bridges that are the result of the move and the fault of the mover and not the New Mexico state police division.

D. Any person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment for a definite term not to exceed six months, or both.

E. Nothing contained in this section shall limit in any manner the authority of the state, a county, a municipality or a political subdivision to collect damages for any unlawful use of highways as provided by law."

Chapter 3 Section 39 Laws 2015

SECTION 39. Section 66-7-413.4 NMSA 1978 (being Laws 2001, Chapter 20, Section 2, as amended) is amended to read:

"66-7-413.4. PERMITS FOR EXCESSIVE WEIGHT.--

A. In addition to the authority granted in Section 66-7-413 NMSA 1978, the New Mexico state police division of the department of public safety may issue special permits authorizing an increase of up to twenty-five percent in axle weight for liquid hauling tank vehicles whenever the liquid hauling tank vehicles would have to haul less than a full tank under the maximum weights authorized in Sections 66-7-409 and 66-7-410 NMSA 1978. A special permit under this section may be issued for a single trip or for a year. The fee for the permits shall be thirty-five dollars (\$35.00) for a single-trip permit and one hundred twenty dollars (\$120) for an annual permit. Revenue from the permit fee shall be used to build, maintain, repair or reconstruct the highways and bridges of this state. Revenue from the permit shall be collected for the department of transportation and transferred to the state road fund.

B. The special permits authorized by this section shall not be valid for transportation of excessive weights on the interstate system as currently defined in federal law or as that system may be defined in the future. A special permit issued pursuant to this section shall not be valid for gross vehicle weights in excess of eighty-six thousand four hundred pounds or for a combination vehicle.

C. If the federal highway administration of the United States department of transportation gives official notice that money will be withheld or that this section violates the grandfather provision of 23 USCA 127, the secretary may withdraw all special permits and discontinue issuance of all special permits authorized in this section until such time that final determination is made. If the final determination allows the state to issue the special permits without sanction of funds or weight tables, the secretary shall reissue the special permits previously withdrawn and make the special permits available pursuant to this section."

Chapter 3 Section 40 Laws 2015

SECTION 40. Section 66-7-415 NMSA 1978 (being Laws 1955, Chapter 37, Section 12, as amended) is amended to read:

"66-7-415. WHEN THE STATE TRANSPORTATION COMMISSION OR LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS.--

A. Local authorities, with respect to streets under their jurisdiction, may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or may impose limitations as to size or weight on designated streets in areas that are primarily residential, which prohibitions and limitations shall be designated by appropriate signs placed on the street.

B. The local authority enacting an ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of the street affected, and the ordinance or resolution shall not be effective until signs are erected and maintained and notice given in writing to the nearest officer or employee of the New Mexico state police division of the department of public safety authorized to issue special permits.

C. The state transportation commission shall likewise have authority, as granted to local authorities in Subsections A and B of this section, to determine by resolution and to impose restrictions as to the size and weight of vehicles operated upon any highways under the jurisdiction of the commission, and such restrictions shall be effective upon the passage of a resolution and when signs giving notice thereof are erected upon the highway or portion of any highway affected by the resolution. The commission shall deliver a copy of all restrictions adopted by it to the New Mexico state police division of the department of public safety."

Chapter 3 Section 41 Laws 2015

SECTION 41. Section 66-7-505 NMSA 1978 (being Laws 1978, Chapter 35, Section 492, as amended) is amended to read:

"66-7-505. ADVISORY COMMITTEE--CREATION--MEMBERS--TERMS.--

A. There is created a five-member advisory committee to the bureau. The chief is, ex officio, the chair and a voting member of the committee. The governor shall appoint three members, to terms coterminous with the governor's tenure, who shall have the following qualifications:

(1) one member who is representative of the law enforcement agencies of this state;

(2) one member who is representative of the school bus transportation function of the public education department; and

(3) one member who is representative of the New Mexico state police division of the department of public safety.

B. Appointees who are public officers or public employees shall be compensated for attendance at meetings according to the Per Diem and Mileage Act.

Appointees who are not public officers or employees shall be compensated for attendance at meetings in commensurate amount."

Chapter 3 Section 42 Laws 2015

SECTION 42. Section 10-11-2 NMSA 1978 (being Laws 1987, Chapter 253, Section 2, as amended) 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. "disability retired member" means a retired member who is receiving a pension pursuant to the disability retirement provisions of the Public Employees Retirement Act;

E. "disability retirement pension" means the pension paid pursuant to the disability retirement provisions of the Public Employees Retirement Act;

F. "educational retirement system" means that retirement system provided for in the Educational Retirement Act;

G. "employee" means any employee of an affiliated public employer;

H. "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;

I. "final average salary" means the final average salary calculated in accordance with the provisions of the applicable coverage plan;

J. "form of payment" means the applicable form of payment of a pension provided for in Section 10-11-117 NMSA 1978;

K. "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;

L. "fund" means the funds included under the Public Employees Retirement Act;

M. "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) "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;

(3) "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;

(4) "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;

(5) "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

(6) "state police member" means a member who is an officer of the New Mexico state police and who has taken the oath prescribed for such officers, except that a state police member shall not include a member who is an officer of the New Mexico state police division and who was certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division of the department of public safety;

N. "membership" means membership in the association;

O. "pension" means a series of monthly payments to a retired member or survivor beneficiary as provided in the Public Employees Retirement Act;

P. "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;

Q. "refund beneficiary" means a person designated by the member, in writing, in the form prescribed by the association, as the person who would be refunded the member's accumulated member contributions payable if the member dies and no survivor pension is payable or who 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;

R. "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;

S. "retired member" means a person who has met all requirements for retirement and who is receiving a pension from the fund;

T. "retirement board" means the retirement board provided for in the Public Employees Retirement Act;

U. "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, 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;

V. "state system" means the retirement programs provided for in the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

W. "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; and

X. "survivor beneficiary" means a person who receives a pension or who has been designated to be paid a pension as a result of the death of a member or retired member."

Chapter 3 Section 43 Laws 2015

SECTION 43. TEMPORARY PROVISIONS--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July 1, 2015:

A. all personnel, appropriations, money, records, equipment, supplies and other property of the special investigations and motor transportation divisions of the department of public safety shall be transferred to the New Mexico state police division of the department of public safety;

B. all contracts pertaining to the special investigations and motor transportation divisions of the department of public safety shall be binding and effective on the department of public safety; and

C. all references in law to the special investigations or motor transportation division of the department of public safety shall be deemed to refer to the New Mexico state police division of the department of public safety.

Chapter 3 Section 44 Laws 2015

SECTION 44. TEMPORARY PROVISIONS--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July 1, 2015:

A. all personnel, appropriations, money, records, equipment, supplies and other property of the training and recruiting division of the department of public safety shall be transferred to the New Mexico law enforcement academy of the department of public safety;

B. all contracts pertaining to the training and recruiting division of the department of public safety shall be binding and effective on the New Mexico law enforcement academy of the department of public safety; and

C. all references in law to the training and recruiting division of the department of public safety shall be deemed to refer to the New Mexico law enforcement academy of the department of public safety.

Chapter 3 Section 45 Laws 2015

SECTION 45. REPEAL.--Sections 60-4B-1, 60-4B-2, 60-4B-7, 65-1-7 and 65-1-38 through 65-1-45 NMSA 1978 (being Laws 1981, Chapter 39, Sections 4, 5 and 10, Laws 1998 (1st S.S.), Chapter 10, Section 6 and Laws 2007, Chapter 54, Sections 1 through 8, as amended) are repealed.

Chapter 3 Section 46 Laws 2015

SECTION 46. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SFL/Senate Bill 95

Approved March 20, 2015

LAWS 2015, CHAPTER 4

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR A SPECIAL REGISTRATION PLATE FOR MEMBERS OF NEW MEXICO AMIGOS; MAKING AN APPROPRIATION.

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

Chapter 4 Section 1 Laws 2015

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

"SPECIAL NEW MEXICO AMIGOS REGISTRATION PLATE.--

A. The division shall issue a standardized special registration plate with a logo designed in accordance with Subsection C of Section 66-3-424 NMSA 1978 that indicates that the owner of a vehicle is a member of New Mexico Amigos.

B. The division shall issue the special registration plate designed pursuant to this section to a person who submits proof satisfactory to the division that the person is currently a member of New Mexico Amigos. Such proof shall include the submission of a signed consent form from the president of New Mexico Amigos.

C. No person shall falsely claim to be a member of New Mexico Amigos so as to be eligible to be issued a special registration plate pursuant to this section.

D. The division may revoke the special license plate of any person who violates the provision of Subsection C of this section.

E. A fee of ten dollars (\$10.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the division for the original issuance of the special registration plate for members of New Mexico Amigos. The fee shall be retained by the division and is appropriated to the division to defray the cost of making and issuing special registration plates pursuant to this section.

F. When a person holding a special New Mexico Amigos registration plate ceases to be a member of New Mexico Amigos, that person shall immediately remove the special registration plate from the person's vehicle and return it to the department; at which time, it shall be exchanged for a regular registration plate."

Senate Bill 97, aa

Approved March 20, 2015

LAWS 2015, CHAPTER 5

AN ACT

RELATING TO PUBLIC HEALTH; ENACTING THE VACCINE PURCHASING ACT; ESTABLISHING A VACCINE PURCHASING PROGRAM; CREATING THE VACCINE PURCHASING FUND; REQUIRING REPORTING OF THE NUMBER OF INSURED CHILDREN; REQUIRING HEALTH INSURERS AND GROUP HEALTH PLANS TO REIMBURSE THE STATE FOR COSTS OF VACCINES PURCHASED BY THE STATE FOR INSURED CHILDREN; PROVIDING FOR PENALTIES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 5 Section 1 Laws 2015

SECTION 1. SHORT TITLE.--This act may be cited as the "Vaccine Purchasing Act".

Chapter 5 Section 2 Laws 2015

SECTION 2. DEFINITIONS.--As used in the Vaccine Purchasing Act:

A. "advisory committee on immunization practices" means the group of medical and public health experts that develops recommendations on how to use vaccines to control diseases in the United States, established under Section 222 of the federal Public Health Service Act;

B. "department" means the department of health;

C. "fund" means the vaccine purchasing fund;

D. "group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care to employees or their dependents under the Employee Retirement Income Security Act of 1974 directly or through insurance, reimbursement or other means;

E. "health insurance coverage" means benefits consisting of medical care provided directly or through insurance or reimbursement or other means under any hospital or medical service policy or certificate, hospital or medical service plan contract or health maintenance organization contract offered by a health insurance issuer;

F. "health insurer" means any entity subject to regulation by the office of superintendent of insurance that:

(1) provides or is authorized to provide health insurance or health benefit plans;

(2) administers health insurance or health benefit coverage; or

(3) otherwise provides a plan of health insurance or health benefits;

G. "insured child" means a child under the age of nineteen who is eligible to receive health insurance coverage from a health insurer or medical care pursuant to a group health plan;

H. "office of superintendent" means the office of superintendent of insurance;

I. "policy" means any contract of health insurance between a health insurer and the insured and all clauses, riders, endorsements and parts thereof;

J. "provider" means an individual or organization licensed, certified or otherwise authorized or permitted by law to provide vaccinations to insured children; and

K. "vaccines for children program" means the federally funded program that provides vaccines at no cost to eligible children pursuant to Section 1928 of the federal Social Security Act.

Chapter 5 Section 3 Laws 2015

SECTION 3. STATEWIDE VACCINE PURCHASING PROGRAM.--

A. The department shall establish and administer a statewide vaccine purchasing program to:

(1) expand access to childhood immunizations recommended by the advisory committee on immunization practices;

(2) maintain and improve immunization rates;

(3) facilitate the acquisition by providers of vaccines for childhood immunizations recommended by the advisory committee on immunization practices; and

(4) leverage public and private funding and resources for the purchase, storage and distribution of vaccines for childhood immunizations recommended by the advisory committee on immunization practices.

B. The department shall:

(1) purchase vaccines for all children in New Mexico, including children eligible for the vaccines for children program and insured children;

(2) invoice each health insurer and group health plan to reimburse the department for the cost of vaccines provided directly or indirectly by the department to such health insurer's or group health plan's insured children;

(3) maintain a list of registered providers who receive vaccines for insured children that are purchased by the state and provide such list to each health insurer and group health plan with every invoice;

(4) report the failure of a health insurer to reimburse the department within thirty days of the date of the invoice to the office of superintendent;

(5) report the failure of a health insurer or group health plan to reimburse the department within thirty days of the date of the invoice to the office of the attorney general for collection; and

(6) credit all receipts collected from health insurers and group health plans pursuant to the Vaccine Purchasing Act to the fund.

C. No later than July 1, 2015 and July 1 of each year thereafter, the department shall estimate the amount to be expended annually by the department to purchase, store and distribute vaccines recommended by the advisory committee on

immunization practices to all insured children in the state, including a reserve of ten percent of the amount estimated.

D. No later than September 1, 2015 and each quarter thereafter, the department shall invoice each health insurer and each group health plan for one-fourth of its proportionate share of the estimated amount and reserve pursuant to Subsection C of this section, calculated pursuant to Subsection B of Section 6 of the Vaccine Purchasing Act.

E. The department may update its estimated amount to be expended annually and its reserve to take into account increases or decreases in the cost of vaccines or the costs of additional vaccines that the department determines should be included in the statewide vaccine purchasing program and adjust the amount invoiced to each health insurer and group health plan the following quarter.

Chapter 5 Section 4 Laws 2015

SECTION 4. VACCINE PURCHASING FUND.--

A. The "vaccine purchasing fund" is created in the state treasury. The fund consists of amounts reimbursed to the state by health insurers and group health plans pursuant to the Vaccine Purchasing Act and of appropriations from, and transfers made to, the fund. Money in the fund shall be expended only for the purposes specified in the Vaccine Purchasing Act, by warrant issued by the secretary of finance and administration pursuant to vouchers approved by the secretary of health.

B. Money from the fund may be appropriated to the department to be expended only as authorized in Section 5 of the Vaccine Purchasing Act.

C. The fund shall be audited in the same manner as other state funds are audited, and all records of payments made from the fund shall be open to the public.

D. Any balance remaining in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

E. Money in the fund shall be invested by the state investment officer in accordance with the limitations in Article 12, Section 7 of the constitution of New Mexico. Income from investment of the fund shall be credited to the fund.

Chapter 5 Section 5 Laws 2015

SECTION 5. AUTHORIZED USES OF THE VACCINE PURCHASING FUND.--

A. The fund shall be used for the purchase, storage and distribution of vaccines, as recommended by the advisory committee on immunization practices, for insured children who are not eligible for the vaccines for children program.

B. The department shall credit any balance remaining in the fund at the end of the fiscal year toward the department's purchase of vaccines the following year; provided that the department maintains a reserve of ten percent of the amount estimated to be expended in the following year.

C. The fund shall not be used:

(1) for the purchase, storage and distribution of vaccines for children who are eligible for the vaccines for children program;

(2) for administrative expenses associated with the statewide vaccine purchasing program; or

(3) to pass through a federally negotiated discount pursuant to 42 U.S.C. 1396s.

Chapter 5 Section 6 Laws 2015

SECTION 6. REPORTING.--

A. No later than one hundred twenty days following the enactment of the Vaccine Purchasing Act, the office of superintendent shall:

(1) promulgate rules requiring each health insurer and group health plan to report the number of children it insured who were under the age of nineteen as of December 31, 2014 and to annually report the number of children it insures who will be under the age of nineteen as of December 31 of each subsequent year to the office of superintendent, excluding from such reports children who are enrolled in medicaid or in any medical assistance program administered by the department or the human services department and children who are American Indian or Alaska Natives; and

(2) for each health insurer or group health plan, provide the department with the number of insured children reported by such health insurer or group health plan pursuant to Paragraph (1) of this subsection.

B. Each health insurer and group health plan shall reimburse the department for the cost of vaccines for childhood immunizations purchased by the state for the benefit of such health insurer's or group health plan's insured children according to such health insurer's or group health plan's policy obligations and in accordance with health insurance coverage requirements under state and federal law. The amount reimbursed by each health insurer or group health plan shall be a fraction, the denominator of which is the total number of insured children reported by all health insurers and group health plans pursuant to Subsection A of this section and the numerator of which is the number of insured children reported by such health insurer or group health plan pursuant to Subsection A of this section multiplied by the total amount

as determined by the department pursuant to Subsection B of Section 3 of the Vaccine Purchasing Act.

C. A health insurer's or group health plan's reimbursement to the department pursuant to the Vaccine Purchasing Act shall be deemed payment for clinical services and activities to promote health care quality for the purpose of calculating a health insurer's or group health plan's medical loss ratio.

Chapter 5 Section 7 Laws 2015

SECTION 7. APPEAL--PENALTIES.--

A. A health insurer aggrieved pursuant to the Vaccine Purchasing Act may appeal as provided in Section 59A-4-20 NMSA 1978.

B. A health insurer or group health plan that fails to file a report required by the office of superintendent pursuant to Subsection A of Section 6 of the Vaccine Purchasing Act shall pay a late filing fee of five hundred dollars (\$500) per day for each day from the date the report was due.

C. The office of superintendent may require a health insurer or group health plan subject to the Vaccine Purchasing Act to produce records that were used to prepare the report required under Subsection A of Section 6 of the Vaccine Purchasing Act. If the office of superintendent determines that there is other than a good faith discrepancy between the number of insured children reported and the number of insured children that should have been reported, the health insurer or group health plan shall pay a civil penalty of five hundred dollars (\$500) for each report filed for which the office of superintendent determines there is such a discrepancy.

D. Failure of a health insurer or group health plan to make timely payment of an amount invoiced pursuant to Subsection D of Section 3 of the Vaccine Purchasing Act shall subject the health insurer or group health plan to a civil penalty of five hundred dollars (\$500) for each day from the date the payment is due.

Chapter 5 Section 8 Laws 2015

SECTION 8. POWERS AND AUTHORITY.--The department and the office of superintendent shall promulgate and enforce such rules as may be necessary to carry out the provisions of the Vaccine Purchasing Act.

Chapter 5 Section 9 Laws 2015

SECTION 9. APPLICABILITY.--The provisions of the Vaccine Purchasing Act:

A. do not apply to an entity that only issues policies, certificates or subscriber contracts within New Mexico that are limited to a specific disease; hospital

confinement; indemnity; accident-only; credit; dental; vision; medicare supplement; long-term care; disability income insurance; student health benefits-only coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; automobile medical payment insurance; nonrenewable short-term coverage issued for a period of twelve months or less; medicaid; or any medical assistance program administered by the department or the human services department; and

B. apply to policies, plans, contracts and certificates delivered or issued for delivery or renewed, extended or amended in this state on or after January 1, 2015.

Chapter 5 Section 10 Laws 2015

SECTION 10. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SJC/Senate Bill 121, w/ec

Approved March 20, 2015

LAWS 2015, CHAPTER 6

AN ACT

RELATING TO DRIVER'S EDUCATION; REDUCING TO FIFTY YEARS OLD THE MINIMUM AGE OF COURSE PARTICIPANTS FOR CERTAIN DRIVER'S EDUCATION COURSES TO BE EXEMPT FROM THE DRIVING SCHOOL LICENSING ACT.

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

Chapter 6 Section 1 Laws 2015

SECTION 1. Section 66-10-12 NMSA 1978 (being Laws 1993, Chapter 68, Section 55) is amended to read:

"66-10-12. EXEMPT PROVIDERS.--The Driving School Licensing Act shall not apply to nonprofit corporations that provide motor vehicle accident prevention courses approved by the traffic safety bureau of the department of transportation and that are engaged in providing courses exclusively for drivers who are fifty years of age or older."

Chapter 6 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

HWMC/House Bill 91

Approved March 30, 2015

LAWS 2015, CHAPTER 7

AN ACT

RELATING TO HIGHER EDUCATION; CHANGING THE DISTRIBUTION PROCESS AND USES OF THE HIGHER EDUCATION ENDOWMENT FUND; CREATING THE HIGHER EDUCATION ENDOWMENT COMMITTEE AND PRESCRIBING DUTIES; MAKING AN APPROPRIATION.

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

Chapter 7 Section 1 Laws 2015

SECTION 1. Section 21-1-27.1 NMSA 1978 (being Laws 2002, Chapter 31, Section 1, as amended) is amended to read:

"21-1-27.1. HIGHER EDUCATION ENDOWMENT FUND CREATED.--

A. The "higher education endowment fund" is created in the state treasury. The fund shall consist of appropriations, income from investment of the fund, gifts, grants, donations and bequests.

B. The higher education endowment fund shall be administered by the higher education department. Money shall be disbursed only on warrant of the secretary of finance and administration upon voucher signed by the secretary of higher education or the secretary's authorized representative.

C. Money in the higher education endowment fund is appropriated to the department for distribution to the public post-secondary educational institutions listed in Subsection D of this section that submit proposals and receive award determinations from the department to establish endowments at the institutions for endowment purposes. Endowment purposes shall include:

(1) establishing endowed chairs, lectureships, professorships, research positions, graduate assistantships and faculty development programs that will enhance the quality of public post-secondary education in New Mexico; and

(2) addressing one or more of the governor's initiatives, including research and development initiatives; technology transfer initiatives; science,

technology, engineering and mathematics initiatives; health, education, water and agriculture initiatives; and work force development initiatives.

D. Appropriations to the higher education endowment fund shall be distributed to public post-secondary educational institutions as awards made by the department or the higher education endowment committee pursuant to competitive proposals submitted by institutions, as follows:

(1) sixty-two percent of the total amount to be distributed may be awarded to the university of New Mexico, the university of New Mexico health sciences center, New Mexico state university and the New Mexico institute of mining and technology;

(2) twenty percent of the total amount to be distributed may be awarded to the New Mexico military institute and any independent community college, branch community college and technical and vocational institute; and

(3) eighteen percent of the total amount to be distributed may be awarded to New Mexico highlands university, eastern New Mexico university, western New Mexico university and northern New Mexico college.

E. Following an award determination, a public post-secondary educational institution shall not receive a distribution until that institution provides documentation to the department that it has received or will receive matching funds, pursuant to a written gift agreement, for the endowment from nongovernmental sources in an amount equal to at least fifty percent of the award amount. Distributions from the higher education endowment fund are made over a two-year cycle with unmatched balances reverting to the general fund at the end of the second fiscal year. Allocations not matched during the first year of a cycle are made available during the second year of a cycle for supplemental or second round matching by any institution listed in Subsection D of this section.

F. The endowment funds of the institutions shall not be expended but shall be invested by the institutions in accordance with the Uniform Prudent Management of Institutional Funds Act and the provisions of Section 21-1-38 NMSA 1978. The income from the investments shall be expended only for endowment purposes.

G. The "higher education endowment committee" is created. The committee is composed of the secretaries of higher education, economic development and finance and administration or their designees. The committee shall meet no less than twice per year to review proposals and award determinations to:

(1) determine whether the proposals and award determinations meet endowment purposes;

(2) determine whether the endowment funds are being distributed pursuant to the provisions of this section; and

(3) recommend ways to support or change the endowment purposes award and distribution processes.

H. The department shall establish rules setting forth the procedures for making award determinations and distributing money from the higher education endowment fund pursuant to the provisions of this section.

I. The department shall report annually to the legislative finance committee on award determinations made pursuant to this section. The report shall include the amounts awarded to each institution, the amount of matching funds and their sources and the purposes of the endowments and awards."

Chapter 7 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

HEC/House Bill 170, aa

Approved March 30, 2015

LAWS 2015, CHAPTER 8

AN ACT

RELATING TO TAXATION; CLARIFYING THE DISTRIBUTION OF THE LIQUOR EXCISE TAX; REPEALING LAWS 2014, CHAPTER 54, SECTION 1.

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

Chapter 8 Section 1 Laws 2015

SECTION 1. 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--LOTTERY TUITION FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local DWI grant fund in an amount equal to the following percentages of the net receipts attributable to the liquor excise tax:

- (1) prior to July 1, 2015, forty-one and one-half percent;
- (2) from July 1, 2015 through June 30, 2018, forty-six percent; and
- (3) on and after July 1, 2018, forty-one and one-half percent.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 of twenty thousand seven hundred fifty dollars (\$20,750) monthly from 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. The distribution pursuant to this subsection shall be used by the municipality only for the provision of alcohol treatment and rehabilitation services for street inebriates.

C. From July 1, 2015 through June 30, 2017, a distribution pursuant to Section 7-1-6.1 NMSA 1978 of thirty-nine percent of the net receipts attributable to the liquor excise tax shall be made to the lottery tuition fund."

Chapter 8 Section 2 Laws 2015

SECTION 2. REPEAL.--Laws 2014, Chapter 54, Section 1 is repealed.

Chapter 8 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 204

Approved March 30, 2015

LAWS 2015, CHAPTER 9

AN ACT

RELATING TO MOTOR VEHICLES; COMPLYING WITH A REGISTRATION
RECIPROCITY AGREEMENT PROVIDING FOR PAYMENT OF APPORTIONABLE
FEES ON THE BASIS OF TOTAL DISTANCE OPERATED.

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

Chapter 9 Section 1 Laws 2015

SECTION 1. Section 66-1-4.9 NMSA 1978 (being Laws 1990, Chapter 120, Section 10, as amended) is amended to read:

"66-1-4.9. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "implement of husbandry" means every vehicle that is designed for agricultural purposes and exclusively used by the owner in the conduct of agricultural operations;

B. "international registration plan" means the registration reciprocity agreement among the contiguous states of the United States, the District of Columbia and provinces of Canada providing for payment of apportionable fees on the basis of total distance operated in all jurisdictions. The international registration plan is a method of registering fleets of vehicles that travel in two or more member jurisdictions and complies with the federal Intermodal Surface Transportation and Efficiency Act of 1991;

C. "intersection" means:

(1) the area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; and

(2) where a highway includes two roadways thirty feet or more apart, every crossing of each roadway of that divided highway by an intersecting highway shall be regarded as a separate intersection; in the event that the intersecting highway also includes two roadways thirty feet or more apart, every crossing of two roadways of those highways shall be regarded as a separate intersection;

D. "inventory", when referring to a vehicle dealer, means a vehicle held for sale or lease in the ordinary course of business, the cost of which is used in calculating the dealer's cost of goods sold for federal income tax purposes; and

E. "jurisdiction", without modification, means "state".

Chapter 9 Section 2 Laws 2015

SECTION 2. Section 66-3-1.1 NMSA 1978 (being Laws 1978, Chapter 18, Section 1, as amended) is amended to read:

"66-3-1.1. MOTOR CARRIERS REQUIRED TO REGISTER WITH THE DEPARTMENT.--

A. All motor carriers desiring and eligible for annual registration provisions relating to the international registration plan shall register their vehicles with the department. The department shall register all motor carriers who satisfy all New Mexico requirements relating to motor carriers, but may refuse to register any vehicle subject to the federal heavy vehicle use tax imposed by Section 4481 of the United States Internal Revenue Code of 1986 without proof of payment of such tax in the form prescribed by the secretary of the treasury of the United States. Registration of motor carrier vehicles with the department shall remain in force during the calendar registration year as specified in Section 66-3-2.1 NMSA 1978 unless suspended or canceled by the department for noncompliance with any New Mexico motor vehicle or motor carrier requirements.

B. In addition to the provisions of Subsection A of this section, motor carriers operating vehicles subject to the weight distance tax pursuant to the Weight Distance Tax Act or vehicles subject to special fuel user permit requirements pursuant to the Special Fuels Supplier Tax Act shall apply for a tax identification permit."

Chapter 9 Section 3 Laws 2015

SECTION 3. Section 66-3-1.2 NMSA 1978 (being Laws 1972, Chapter 7, Section 50, as amended) is amended to read:

"66-3-1.2. REGISTRATION--DECLARED GROSS WEIGHT.--Except as otherwise provided by law, the division shall register each truck, truck tractor, road tractor and bus required to be registered under the international registration plan or reciprocal agreements with other jurisdictions for a declared gross weight not to exceed the legal limitation established by this state."

Chapter 9 Section 4 Laws 2015

SECTION 4. Section 66-3-2.1 NMSA 1978 (being Laws 1978, Chapter 17, Section 1, as amended) is amended to read:

"66-3-2.1. FULL RECIPROCITY REGISTRATION--APPLICATION--FEE--FORMULA--PAYMENT.--

A. Any owner, except an owner of a one-way rental fleet, may, in lieu of registration of vehicles under the provisions of Sections 66-6-3 and 66-6-4 NMSA 1978, register for operation in this state by filing an application with the division that shall contain the following information and such other information pertinent to vehicle registration as the division may require:

(1) total miles, which is the total number of miles operated in all jurisdictions during the required reporting period by the motor vehicles in the fleet during that year; and

(2) a description and identification of each motor vehicle of the fleet that is to be operated in this state during the registration year for which international registration plan registration is requested.

B. The application for each carrier shall be supported, at the time and in the manner required by the division, by a fee payment computed as follows:

(1) divide the sum of in-state miles by total international registration plan registered vehicle miles;

(2) determine the total amount necessary under Sections 66-6-3 and 66-6-4 NMSA 1978 to register each vehicle for which international registration plan registration is requested, based on the regular annual fees or applicable fees for the unexpired portion of the registration year; and

(3) multiply the sum obtained under Paragraph (2) of this subsection by the fraction obtained under Paragraph (1) of this subsection."

Chapter 9 Section 5 Laws 2015

SECTION 5. Section 66-3-2.2 NMSA 1978 (being Laws 1972, Chapter 7, Section 34, as amended) is amended to read:

"66-3-2.2. REGISTRATION AND IDENTIFICATION OF VEHICLES REGISTERED UNDER THE INTERNATIONAL REGISTRATION PLAN--FEE--EFFECT OF REGISTRATION.--

A. The division shall register the vehicles so described and identified in an application and may issue a registration plate or a distinctive sticker or other suitable identification device for each vehicle described in the application upon payment of the appropriate fees for the application. The registration card shall bear upon its face information required by the division to identify it as a qualified registered vehicle under the international registration plan and other information required by law and regulation and shall be carried in the vehicle at all times.

B. Vehicles so registered and identified shall be deemed to be fully registered in this state for any type of movement or operation, provided that all other state requirements have been met."

Chapter 9 Section 6 Laws 2015

SECTION 6. Section 66-3-2.3 NMSA 1978 (being Laws 1972, Chapter 7, Section 35, as amended) is amended to read:

"66-3-2.3. FULL RECIPROCITY REGISTRATION--JURISDICTIONS.--The right to the privileges and benefits of registration under the international registration plan extended by Sections 66-3-2.1 through 66-3-2.10 NMSA 1978 or by any contract, agreement or declaration made accordingly shall be subject to the condition that each vehicle registered in this state shall also be properly registered in all other jurisdictions during the registration period."

Chapter 9 Section 7 Laws 2015

SECTION 7. Section 66-3-2.4 NMSA 1978 (being Laws 1972, Chapter 7, Section 36) is amended to read:

"66-3-2.4. REGISTRATION OF ADDITIONAL MOTOR VEHICLES.--Motor vehicles acquired by the owner after the commencement of the registration year shall be proportionally registered by applying the "New Mexico mileage percentage", which is the figure resulting from the division of in-state miles by total fleet miles used in the original application, for all of the fleet vehicles for the registration period to the regular registration fees due with respect to the added motor vehicles for the remainder of the registration year. The registration fee for additional motor vehicles shall be prorated on a quarterly basis."

Chapter 9 Section 8 Laws 2015

SECTION 8. Section 66-3-2.5 NMSA 1978 (being Laws 1972, Chapter 7, Section 37, as amended) is amended to read:

"66-3-2.5. WITHDRAWAL OF FLEET MOTOR VEHICLES--NOTIFICATION--SURRENDER OF DOCUMENTS.--If any motor vehicle is withdrawn from a full reciprocity registered fleet during the period for which it is registered in this state, the owner of the fleet shall notify the division on forms it has prescribed. The division shall require the owner to surrender registration cards and other identification devices that have been issued with respect to the motor vehicle."

Chapter 9 Section 9 Laws 2015

SECTION 9. Section 66-3-2.6 NMSA 1978 (being Laws 1972, Chapter 7, Section 38, as amended) is amended to read:

"66-3-2.6. PRESERVATION OF INTERNATIONAL REGISTRATION PLAN RECORDS--AUDIT.--Any owner whose application for registration under the international registration plan has been accepted shall preserve the records on which the application is based either for a period of four years following the year or period upon which the application is based or for any other period required by the state that is

considered to be the base state of the vehicle under the terms of a multistate agreement on registration of vehicles to which this state is a party. Upon request of the division, the owner shall make the records available to the division at the owner's office for audit as to accuracy of computation and payments. If the owner maintains and keeps the owner's records, books or papers at any place outside of the state, the director or the director's authorized agent may examine them at the place where they are kept. The division may make arrangements with agencies of other jurisdictions administering motor vehicle laws for joint audits of any such owners."

Chapter 9 Section 10 Laws 2015

SECTION 10. Section 66-3-2.7 NMSA 1978 (being Laws 1972, Chapter 7, Section 39, as amended) is amended to read:

"66-3-2.7. NEW REGISTRANT--ESTIMATED MILEAGE.--When a registrant's fleet is considered new under the international registration plan, fees shall be calculated using New Mexico's average per vehicle distance chart. A new registrant shall be registered in all international registration plan jurisdictions."

Chapter 9 Section 11 Laws 2015

SECTION 11. Section 66-3-2.8 NMSA 1978 (being Laws 1972, Chapter 7, Section 40, as amended) is amended to read:

"66-3-2.8. FLEET REGISTRATION--DENIAL.--The division may refuse to accept full reciprocity registration applications for the registration of vehicles based in another jurisdiction if the division finds that the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state."

Chapter 9 Section 12 Laws 2015

SECTION 12. Section 66-3-2.9 NMSA 1978 (being Laws 1972, Chapter 7, Section 41) is amended to read:

"66-3-2.9. RELATIONSHIP TO OTHER STATE LAWS.--The provisions of Sections 66-3-2.1 through 66-3-2.10 NMSA 1978 constitute complete authority for the registration of fleet vehicles without reference to or application of any other statutes of this state except as expressly provided in the Motor Transportation Act."

Chapter 9 Section 13 Laws 2015

SECTION 13. Section 66-3-2.10 NMSA 1978 (being Laws 1972, Chapter 7, Section 42, as amended) is amended to read:

"66-3-2.10. REGISTRATION UNDER THE INTERNATIONAL REGISTRATION PLAN NOT EXCLUSIVE.--Nothing contained in the Motor Transportation Act relating to the full reciprocity registration of fleet vehicles shall be construed as requiring any vehicle to be registered pursuant to the international registration plan if it is otherwise registered in this state for the operation in which it is engaged, including, but not by way of limitation, registration, temporary registration permit or trip permit."

Chapter 9 Section 14 Laws 2015

SECTION 14. Section 66-3-20 NMSA 1978 (being Laws 1978, Chapter 35, Section 40, as amended) is amended to read:

"66-3-20. RENEWAL OF REGISTRATION--VEHICLES REGISTERED BY DECLARED GROSS WEIGHT.--All motor vehicles registered by declared gross weight, including vehicles subject to the international registration plan or registration under reciprocal agreement with another state, shall be registered with the department on a staggered basis and that registration shall expire at the end of the twelve-month registration period."

Chapter 9 Section 15 Laws 2015

SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 377

Approved March 30, 2015

LAWS 2015, CHAPTER 10

AN ACT

RELATING TO CRIME VICTIM REPARATIONS; AMENDING AND EXPANDING THE ENUMERATED CRIMES IN THE CRIME VICTIMS REPARATION ACT; ALLOWING THE CRIME VICTIMS REPARATION COMMISSION TO EXTEND THE TIME FOR FILING A CLAIM UPON GOOD CAUSE SHOWN; CREATING A CRIME VICTIMS REPARATION FEE FOR THOSE CONVICTED OF A MISDEMEANOR OR FELONY OFFENSE; MAKING AN APPROPRIATION.

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

Chapter 10 Section 1 Laws 2015

SECTION 1. Section 31-22-8 NMSA 1978 (being Laws 1981, Chapter 325, Section 8, as amended) is amended to read:

"31-22-8. CRIMES ENUMERATED.--

A. The crimes to which the Crime Victims Reparation Act applies and for which reparation to victims may be made are the following enumerated offenses and all other offenses in which any enumerated offense is necessarily included:

- (1) arson resulting in bodily injury;
- (2) aggravated assault or aggravated battery;
- (3) dangerous use of explosives resulting in bodily injury;
- (4) negligent use of a deadly weapon;
- (5) murder;
- (6) voluntary manslaughter;
- (7) involuntary manslaughter;
- (8) kidnapping;
- (9) criminal sexual penetration;
- (10) criminal sexual contact of a minor;
- (11) homicide by vehicle or great bodily injury by vehicle, as provided in Section 66-8-101 NMSA 1978;
- (12) abandonment or abuse of a child;
- (13) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;
- (14) stalking;
- (15) human trafficking;
- (16) assault against a household member; and
- (17) battery against a household member.

B. No award shall be made for any loss or damage to property."

Chapter 10 Section 2 Laws 2015

SECTION 2. Section 31-22-14 NMSA 1978 (being Laws 1981, Chapter 325, Section 14, as amended) is amended to read:

"31-22-14. LIMITATIONS ON AWARD--COLLATERAL RECOVERY--
PRELIMINARY AWARD.--

A. No order for the payment of reparation shall be made unless application has been made within two years after the date of the injury or death and the injury or death was the result of a crime enumerated in Section 31-22-8 NMSA 1978 that had been reported to the police within thirty days after its occurrence unless a longer period is allowed pursuant to Subsection F of this section. An application for reparation shall be made within two years after the injury or death, except for minors who are victims of criminal activity under the provisions of Section 30-6-1 NMSA 1978, regarding abandonment or abuse of a child, Section 30-9-11 NMSA 1978, regarding criminal sexual penetration, or Section 30-9-13 NMSA 1978, regarding criminal sexual contact of a minor. The date of incident for minors who are victims of these types of criminal activity shall be the date the victim attains the age of eighteen years or the date that the criminal activity is reported to a law enforcement agency, whichever occurs first. The commission may extend the time for filing an application for good cause shown by a claimant or a victim.

B. No award of reparation shall be in excess of twenty thousand dollars (\$20,000) per victim except that the commission may award up to an additional thirty thousand dollars (\$30,000) for extraordinary pecuniary losses, if the personal injury to a victim is catastrophic and results in a permanent total disability. The extraordinary losses compensated may include:

- (1) loss of wages;
- (2) the cost of home health care;
- (3) the cost of making a home or automobile accessible;
- (4) the cost of training in the use of special application; or
- (5) job training.

C. Except as provided by Subsection E of this section, the commission shall deduct from any reparation awarded any payments received from a collateral source or from the United States or the state or any of its political subdivisions for injury or death subject to reparation under the Crime Victims Reparation Act. If the claimant receives an award of reparation from the commission and also receives payment as set forth in the preceding sentence for which no deduction was made, the claimant shall

refund to the state the lesser of the amount of reparation paid or the sums not so deducted.

D. If the claimant receives an award of reparation from the commission and also receives an award pursuant to a civil judgment arising from a criminal occurrence for which a reparation award was paid, the claimant shall refund to the state the amount of the reparation paid to the claimant. The commission may negotiate a reasonable settlement regarding repayment of the reparation award if special circumstances exist.

E. If it appears that a final award of reparation will be made by the commission, a preliminary award may be authorized by the director of the commission or the commission's designee when the commission chair concurs. The amount of the preliminary award shall be deducted from any final award made by the commission.

F. The commission may grant a waiver to the requirement in Subsection A of this section that a crime be reported to the police within thirty days of its occurrence for:

(1) a victim of domestic violence or sexual assault if reported to the police within one hundred eighty days of the occurrence; or

(2) a crime against a child that was reported within thirty days of its occurrence to the children, youth and families department, a domestic violence or sexual assault service provider, a teacher or a health care provider; provided that a police report shall be filed before the commission approves payment."

Chapter 10 Section 3 Laws 2015

SECTION 3. A new section of Chapter 31, Article 12 NMSA 1978 is enacted to read:

"CRIME VICTIMS REPARATION FEE.--

A. In addition to any other fees or penalties collected in a district court, metropolitan court and magistrate court, those courts shall assess and collect from a person convicted of a misdemeanor or felony offense a mandatory crime victims reparation fee. The fee shall be levied at the time of sentencing in addition to any sentence required or permitted by law, in accordance with the following schedule:

(1) a person convicted of a felony shall pay a crime victims reparation fee of seventy-five dollars (\$75.00); and

(2) a person convicted of a misdemeanor shall pay a crime victims reparation fee of fifty dollars (\$50.00).

B. Crime victim reparation fees shall be deposited in the crime victims reparation fund."

Chapter 10 Section 4 Laws 2015

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 510, aa

Approved March 31, 2015

LAWS 2015, CHAPTER 11

AN ACT

RELATING TO THE INSURANCE NOMINATING COMMITTEE; AMENDING CERTAIN PROVISIONS REGARDING THE COMMITTEE AND SUPERINTENDENT OF INSURANCE; PROVIDING THAT THE OFFICE OF SUPERINTENDENT OF INSURANCE WILL ADMINISTRATIVELY SUPPORT THE INSURANCE NOMINATING COMMITTEE; MAKING THE INSURANCE NOMINATING COMMITTEE AND ITS MEMBERS SUBJECT TO THE PROVISIONS OF CERTAIN LAWS.

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

Chapter 11 Section 1 Laws 2015

SECTION 1. Section 10-16A-3 NMSA 1978 (being Laws 1993, Chapter 46, Section 41, as amended) is amended to read:

"10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON BALLOT OR APPOINTMENT.--

A. At the time of filing a declaration of candidacy or nominating petition, a candidate for legislative or statewide office shall file with the proper filing officer, as defined in Section 1-8-25 NMSA 1978, a financial disclosure statement on a prescribed form. In addition, each year thereafter during the month of January, a legislator and a person holding a statewide office shall file with the proper filing officer a financial disclosure statement. If the proper filing officer is not the secretary of state, the proper filing officer shall forward a copy of the financial disclosure statement to the secretary of state within seventy-two hours.

B. A state agency head, an official whose appointment to a board or commission is subject to confirmation by the senate or a member of the insurance nominating committee shall file with the secretary of state a financial disclosure statement within thirty days of appointment and during the month of January every year thereafter that the person holds public office.

C. The financial disclosure statement shall include for any person identified in Subsection A or B of this section and the person's spouse the following information for the prior calendar year:

(1) the full name, mailing address and residence address of each person covered in the disclosure statement, except the address of the spouse need not be disclosed; the name and address of the person's and spouse's employer and the title or position held; and a brief description of the nature of the business or occupation;

(2) all sources of gross income of more than five thousand dollars (\$5,000) to each person covered in the disclosure statement, identified by general category descriptions that disclose the nature of the income source, in the following broad categories: law practice or consulting operation or similar business, finance and banking, farming and ranching, medicine and health care, insurance (as a business and not as payment on an insurance claim), oil and gas, transportation, utilities, general stock market holdings, bonds, government, education, manufacturing, real estate, consumer goods sales with a general description of the consumer goods and the category "other", with direction that the income source be similarly described. In describing a law practice, consulting operation or similar business of the person or spouse, the major areas of specialization or income sources shall be described, and if the spouse or a person in the reporting person's or spouse's law firm, consulting operation or similar business is or was during the reporting calendar year or the prior calendar year a registered lobbyist under the Lobbyist Regulation Act, the names and addresses of all clients represented for lobbying purposes during those two years shall be disclosed;

(3) a general description of the type of real estate owned in New Mexico, other than a personal residence, and the county where it is located;

(4) all other New Mexico business interests not otherwise listed of ten thousand dollars (\$10,000) or more in a New Mexico business or entity, including any position held and a general statement of purpose of the business or entity;

(5) all memberships held by the reporting individual and the individual's spouse on boards of for-profit businesses in New Mexico;

(6) all New Mexico professional licenses held;

(7) each state agency that was sold goods or services in excess of five thousand dollars (\$5,000) during the prior calendar year by a person covered in the disclosure statement;

(8) each state agency, other than a court, before which a person covered in the disclosure statement represented or assisted clients in the course of the person's employment during the prior calendar year; and

(9) a general category that allows the person filing the disclosure statement to provide whatever other financial interest or additional information the person believes should be noted to describe potential areas of interest that should be disclosed.

D. A complete financial disclosure statement shall be filed every year. The secretary of state shall mail each elected official required to file a financial disclosure statement a copy of any statement the person filed the previous year.

E. The financial disclosure statements filed pursuant to this section are public records open to public inspection during regular office hours and shall be retained by the state for five years from the date of filing.

F. A person who files a financial disclosure statement may file an amended statement at any time to reflect significant changed circumstances that occurred since the last statement was filed.

G. A candidate for a legislative or statewide office who fails or refuses to file a financial disclosure statement required by this section before the final date for the withdrawal of candidates provided for in the Election Code shall not have the candidate's name printed on the election ballot.

H. For a state agency head, an official whose appointment to a board or commission is subject to confirmation by the senate or a member of the insurance nominating committee, the filing of the financial disclosure statement required by this section is a condition of entering upon and continuing in state employment or holding an appointed position."

Chapter 11 Section 2 Laws 2015

SECTION 2. Section 41-4-3 NMSA 1978 (being Laws 1976, Chapter 58, Section 3, as amended) is amended to read:

"41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

A. "board" means the risk management advisory board;

B. "governmental entity" means the state or any local public body as defined in Subsections C and H of this section;

C. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions and all water and natural gas associations organized pursuant to Chapter 3, Article 28 NMSA 1978;

D. "law enforcement officer" means a full-time salaried public employee of a governmental entity, or a certified part-time salaried police officer employed by a governmental entity, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes, or members of the national guard when called to active duty by the governor;

E. "maintenance" does not include:

(1) conduct involved in the issuance of a permit, driver's license or other official authorization to use the roads or highways of the state in a particular manner; or

(2) an activity or event relating to a public building or public housing project that was not foreseeable;

F. "public employee" means an officer, employee or servant of a governmental entity, excluding independent contractors except for individuals defined in Paragraphs (7), (8), (10), (14) and (17) of this subsection, or of a corporation organized pursuant to the Educational Assistance Act, the Small Business Investment Act or the Mortgage Finance Authority Act or a licensed health care provider, who has no medical liability insurance, providing voluntary services as defined in Paragraph (16) of this subsection and including:

(1) elected or appointed officials;

(2) law enforcement officers;

(3) persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;

(4) licensed foster parents providing care for children in the custody of the human services department, corrections department or department of health, but not including foster parents certified by a licensed child placement agency;

(5) members of state or local selection panels established pursuant to the Adult Community Corrections Act;

(6) members of state or local selection panels established pursuant to the Juvenile Community Corrections Act;

(7) licensed medical, psychological or dental arts practitioners providing services to the corrections department pursuant to contract;

(8) members of the board of directors of the New Mexico medical insurance pool;

(9) individuals who are members of medical review boards, committees or panels established by the educational retirement board or the retirement board of the public employees retirement association;

(10) licensed medical, psychological or dental arts practitioners providing services to the children, youth and families department pursuant to contract;

(11) members of the board of directors of the New Mexico educational assistance foundation;

(12) members of the board of directors of the New Mexico student loan guarantee corporation;

(13) members of the New Mexico mortgage finance authority;

(14) volunteers, employees and board members of court-appointed special advocate programs;

(15) members of the board of directors of the small business investment corporation;

(16) health care providers licensed in New Mexico who render voluntary health care services without compensation in accordance with rules promulgated by the secretary of health. The rules shall include requirements for the types of locations at which the services are rendered, the allowed scope of practice and measures to ensure quality of care;

(17) an individual while participating in the state's adaptive driving program and only while using a special-use state vehicle for evaluation and training purposes in that program;

(18) the staff and members of the board of directors of the New Mexico health insurance exchange established pursuant to the New Mexico Health Insurance Exchange Act; and

(19) members of the insurance nominating committee;

G. "scope of duty" means performing any duties that a public employee is requested, required or authorized to perform by the governmental entity, regardless of the time and place of performance; and

H. "state" or "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions."

Chapter 11 Section 3 Laws 2015

SECTION 3. Section 59A-2-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 20, as amended) is amended to read:

"59A-2-2. SUPERINTENDENT--APPOINTMENT--TERM--COMPENSATION--REMOVAL.--

A. The position of superintendent of insurance shall be the chief officer of the office of superintendent of insurance.

B. The superintendent shall be appointed by the insurance nominating committee.

C. The superintendent shall serve for a term of four years, except that the initial term beginning July 1, 2013 shall end on December 31, 2015. If the position of superintendent becomes vacant, the successor shall serve for the remainder of the term. An incumbent superintendent may apply to the insurance nominating committee for appointment to additional terms.

D. The superintendent's annual compensation shall be subject to legislative appropriation and established by the insurance nominating committee at the start of each term and annually thereafter. The superintendent's annual compensation shall be no lower than that of the lowest-compensated cabinet secretary and no higher than that of the highest-compensated cabinet secretary.

E. The superintendent shall not be removed except for incompetence, willful neglect of duty or malfeasance in office. The insurance nominating committee may remove the superintendent after providing the superintendent with notice and a hearing."

Chapter 11 Section 4 Laws 2015

SECTION 4. Section 59A-2-2.1 NMSA 1978 (being Laws 2013, Chapter 74, Section 15) is amended to read:

"59A-2-2.1. INSURANCE NOMINATING COMMITTEE--DUTIES--ADMINISTRATIVE ATTACHMENT.--

A. The "insurance nominating committee" is created and consists of nine members, including:

(1) four members who are selected by the New Mexico legislative council as follows:

(a) two members who shall represent the interests of the insurance industry;

(b) two members who shall represent the interests of insurance consumers and who have experience advocating on behalf of consumers or the public interest on insurance issues. These consumer members shall not be employed by or on behalf of or have a contract with an employer that is regulated by the office of superintendent of insurance; and

(c) no more than two of the four members shall be from the same political party;

(2) four members who are selected by the governor as follows:

(a) two members who shall represent the interests of the insurance industry;

(b) two members who shall represent the interests of insurance consumers and who have experience advocating on behalf of consumers or the public interest on insurance issues. These consumer members shall not be employed by or on behalf of or have a contract with an employer that is regulated by the office of superintendent of insurance; and

(c) no more than two of the four members shall be from the same political party; and

(3) a ninth member who shall be chair of the committee and who shall be selected by a majority of the other eight members; provided that the member shall:

(a) not be a candidate for the position of superintendent of insurance; and

(b) be either a former New Mexico superintendent of insurance or another person with extensive knowledge of insurance regulation in New Mexico, but does not have, nor have a spouse or child who has, any direct financial interest in an insurer, insurance agency or insurance transaction except as a policyholder or a claimant under a policy or as an owner of less than one percent of the shares of an insurer that is a publicly traded corporation.

B. A vacancy on the committee shall be filled by the original appointing authority for the remainder of the term.

C. A committee member shall:

(1) be a resident of New Mexico;

(2) serve a four-year term; except that a member of the first committee appointed shall serve for a term that ends on June 30, 2015; and

(3) serve without compensation, but shall be eligible to receive per diem and mileage pursuant to the Per Diem and Mileage Act.

D. The committee is subject to the Inspection of Public Records Act and the Open Meetings Act. Individual members of the committee are subject to the Governmental Conduct Act and the Financial Disclosure Act.

E. The committee shall convene within ninety days prior to the date on which the term of a superintendent ends and shall appoint a superintendent within sixty days of convening.

F. Upon the occurrence of a vacancy in the superintendent position, the committee shall convene within thirty days of the date of the vacancy and shall appoint a successor to fill the remainder of the superintendent's term within sixty days of convening.

G. The committee shall actively solicit, accept and evaluate applications from qualified individuals for the position of superintendent and may require an applicant to submit any information it deems relevant to the consideration of the individual's application.

H. The committee shall appoint the superintendent by a vote of a majority of all members of the committee.

I. The committee shall meet no less often than annually.

J. The committee is administratively attached to the office of superintendent of insurance. The office of superintendent of insurance shall provide staff for the committee.

K. An employee of the office of superintendent of insurance who serves as staff for the committee shall not reveal to any person, except another committee staff person, any requests or statements disclosed in confidence by a committee member, except that this restriction shall not apply to any disclosure that is:

(1) protected under the Whistleblower Protection Act; or

(2) required by law."

Chapter 11 Section 5 Laws 2015

SECTION 5. Section 59A-2-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 21, as amended) is amended to read:

"59A-2-3. SUPERINTENDENT--QUALIFICATIONS AND BOND.--The superintendent shall:

A. be a resident of New Mexico at the time of appointment;

B. be bonded as provided in the Surety Bond Act;

C. not have a direct financial interest in an insurer, insurance agency or insurance transaction except as a policyholder or a claimant under a policy or as an owner of less than one percent of the shares of an insurer that is a publicly traded corporation; and

D. not have a spouse who:

(1) has a direct financial interest in an insurer or insurance agency regulated by the office of superintendent of insurance, except as an owner of less than one percent of the shares of an insurer that is a publicly traded corporation; or

(2) is licensed as an individual by the office of superintendent of insurance."

Senate Bill 3, aa

Approved March 31, 2015

LAWS 2015, CHAPTER 12

AN ACT

RELATING TO CRIMINAL SENTENCING; MAKING TECHNICAL CORRECTIONS TO THE CRIMINAL SENTENCING ACT.

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

Chapter 12 Section 1 Laws 2015

SECTION 1. Section 31-18-25 NMSA 1978 (being Laws 1996, Chapter 79, Section 1, as amended) is amended to read:

"31-18-25. TWO VIOLENT SEXUAL OFFENSE CONVICTIONS--MANDATORY LIFE IMPRISONMENT--EXCEPTION.--

A. When a defendant is convicted of a second violent sexual offense, and each violent sexual offense conviction is part of a separate transaction or occurrence, and at least the second violent sexual offense conviction is in New Mexico, the defendant shall, in addition to the punishment imposed for the second violent sexual offense conviction, be punished by a sentence of life imprisonment. The life imprisonment sentence shall be subject to parole pursuant to the provisions of Section 31-21-10 NMSA 1978.

B. Notwithstanding the provisions of Subsection A of this section, when a defendant is convicted of a second violent sexual offense, and each violent sexual offense conviction is part of a separate transaction or occurrence, and the victim of each violent sexual offense was less than thirteen years of age at the time of the offense, and at least the second violent sexual offense conviction is in New Mexico, the defendant shall be punished by a sentence of life imprisonment without the possibility of parole.

C. The sentence of life imprisonment shall be imposed after a sentencing hearing, separate from the trial or guilty plea proceeding resulting in the second violent sexual offense conviction, pursuant to the provisions of Section 31-18-26 NMSA 1978.

D. For the purposes of this section, a violent sexual offense conviction incurred by a defendant before the defendant reaches the age of eighteen shall not count as a violent sexual offense conviction.

E. When a defendant has a felony conviction from another state, the felony conviction shall be considered a violent sexual offense for the purposes of the Criminal Sentencing Act if the crime would be considered a violent sexual offense in New Mexico.

F. As used in the Criminal Sentencing Act, "violent sexual offense" means:

(1) criminal sexual penetration in the first degree, as provided in Subsection D of Section 30-9-11 NMSA 1978; or

(2) criminal sexual penetration in the second degree, as provided in Subsection E of Section 30-9-11 NMSA 1978."

Senate Bill 83

Approved March 31, 2015

LAWS 2015, CHAPTER 13

AN ACT

RELATING TO CRIMINAL LAW; REVISING PENALTIES FOR SEXUAL EXPLOITATION OF CHILDREN BY PROSTITUTION.

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

Chapter 13 Section 1 Laws 2015

SECTION 1. Section 30-6A-1 NMSA 1978 (being Laws 1984, Chapter 92, Section 1) is amended to read:

"30-6A-1. SHORT TITLE.--Chapter 30, Article 6A NMSA 1978 may be cited as the "Sexual Exploitation of Children Act"."

Chapter 13 Section 2 Laws 2015

SECTION 2. Section 30-6A-4 NMSA 1978 (being Laws 1984, Chapter 92, Section 4, as amended) is amended to read:

"30-6A-4. SEXUAL EXPLOITATION OF CHILDREN BY PROSTITUTION.--

A. Any person knowingly receiving any pecuniary profit as a result of a child under the age of sixteen engaging in a prohibited sexual act with another is guilty of a second degree felony, unless the child is under the age of thirteen, in which event the person is guilty of a first degree felony.

B. Any person knowingly hiring or offering to hire a child under the age of sixteen to engage in any prohibited sexual act is guilty of a second degree felony.

C. Any parent, legal guardian or person having custody or control of a child under sixteen years of age who knowingly permits that child to engage in or to assist any other person to engage in any prohibited sexual act or simulation of such an act for the purpose of producing any visual or print medium depicting such an act is guilty of a third degree felony."

Chapter 13 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 101, aa

Approved March 31, 2015

LAWS 2015, CHAPTER 14

AN ACT

RELATING TO AMBER ALERTS; REQUIRING ALL COMMERCIAL MOBILE RADIO SERVICE PROVIDERS OPERATING IN THE STATE TO SEND WIRELESS EMERGENCY ALERTS, INCLUDING AMBER ALERTS, TO CUSTOMERS IN AFFECTED AREAS; PROVIDING DEFINITIONS.

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

Chapter 14 Section 1 Laws 2015

SECTION 1. Section 63-9B-4.1 NMSA 1978 (being Laws 2005, Chapter 142, Section 2) is amended to read:

"63-9B-4.1. WIRELESS EMERGENCY ALERTS--AMBER ALERT NOTIFICATION.--

A. Each commercial mobile radio service provider that is authorized to conduct business in New Mexico shall submit to the authorized requester, designated by the chief of the New Mexico state police pursuant to the AMBER Alert Law, the provider's procedure for receiving a wireless emergency alert, including an AMBER alert, and for disseminating those alerts to the provider's customers as provided in this section.

B. Every alerting authority that has the necessary computer software or other infrastructure shall use the federal emergency management agency's integrated public alert and warning system or its successor federal public alert system to communicate wireless emergency alerts.

C. Upon receipt of a wireless emergency alert initiated by an alerting authority, every commercial mobile radio service provider shall disseminate the wireless emergency alert to the provider's customers in the geographic area identified in the wireless emergency alert. Dissemination of a wireless emergency alert as provided in this section shall be undertaken in the most technically efficient manner possible, using standard network sharing protocol from authorized agencies or their respective communication contractors.

D. A wireless emergency alert disseminated pursuant to this section shall be disseminated at no additional expense to a provider's customer.

E. As used in this section:

(1) "alerting authority" means a state, local or tribal government that is authorized to use the federal emergency management agency's integrated public alert and warning system to communicate a wireless emergency alert;

(2) "commercial mobile radio service provider" means a federal communications commission licensee that provides commercial radio communication service for profit and that makes interconnected service available to the public in the state;

(3) "integrated public alert and warning system" means an internet-based system that provides for the dissemination of a wireless emergency alert; and

(4) "wireless emergency alert" means a public alert disseminated pursuant to the integrated public alert and warning system by an alerting authority through a commercial mobile radio service provider and includes:

(a) an extreme weather or other emergency alert;

(b) an AMBER alert; and

(c) an alert issued by the president during a national emergency."

Chapter 14 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 174, aa

Approved March 31, 2015

LAWS 2015, CHAPTER 15

AN ACT

RELATING TO TAXATION; ALLOWING AN ELECTRONIC WARRANT OF LEVY FOR COLLECTION OF DELINQUENT TAXES.

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

Chapter 15 Section 1 Laws 2015

SECTION 1. Section 7-1-31 NMSA 1978 (being Laws 1965, Chapter 248, Section 33, as amended) is amended to read:

"7-1-31. SEIZURE OF PROPERTY BY LEVY FOR COLLECTION OF TAXES.--

A. The secretary or secretary's delegate may proceed to collect tax from a delinquent taxpayer by levy upon all property or rights to property of the delinquent taxpayer and convert the property or rights to property to money by appropriate means.

B. A levy is made by taking possession of property pursuant to authority contained in a warrant of levy or by the service, by the secretary or secretary's delegate or any sheriff or certified law enforcement employee of the department of public safety, of the warrant upon the taxpayer or other person in possession of property or rights to property of the taxpayer, upon the taxpayer's employer or upon any person or depository owing or who will owe money to or holding funds of the taxpayer, ordering the taxpayer or other person to reveal the extent thereof and surrender it to the secretary or secretary's delegate forthwith or agree to surrender it or the proceeds therefrom in the future, but in any case on the terms and conditions stated in the warrant.

C. Upon agreement between the department and a financial institution, the department may serve a warrant of levy on the financial institution in electronic format pursuant to the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act."

Chapter 15 Section 2 Laws 2015

SECTION 2. Section 7-1-32 NMSA 1978 (being Laws 1965, Chapter 248, Section 34, as amended) is amended to read:

"7-1-32. CONTENTS OF WARRANT OF LEVY.--A warrant of levy shall:

A. bear on its face a statement of the authority for its service and compelling compliance with its terms, shall be attested by the secretary by electronic signature, if necessary, unless the warrant is served in electronic format upon a financial institution pursuant to the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act and shall bear the seal of the department;

B. identify the taxpayer whose liability for taxes is sought to be enforced, the amount thereof and the date or approximate date on which the tax became due;

C. order the person on whom it is served to reveal the amount of property or rights to property in the person's possession that belong to the taxpayer and the extent of the person's interest therein and to reveal the amount and kind of property or rights to property of the taxpayer that are, to the best of the person's knowledge, in the possession of others;

D. order the person on whom it is served to surrender the property forthwith but may allow the person to agree in writing to surrender the property or the proceeds therefrom on a certain date in the future when the taxpayer's right to it would otherwise mature;

E. order the employer of the taxpayer to surrender wages or salary of the taxpayer in excess of the amount exempt under Section 7-1-36 NMSA 1978 owed by the employer to the taxpayer at the time of service of the levy and that may become owed by the employer to the taxpayer subsequent to the service of the levy until the full amount of the liability stated on the levy is satisfied or until notified by the secretary or the secretary's delegate;

F. state on its face the penalties for willful failure by any person upon whom it is served to comply with its terms; and

G. state that the state of New Mexico claims a lien for the entire amount of tax asserted to be due, including applicable interest and penalties."

Chapter 15 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 218

Approved March 31, 2015

LAWS 2015, CHAPTER 16

AN ACT

RELATING TO PUBLIC SERVICE; ENACTING THE CHILDREN, YOUTH AND FAMILIES WORKER LOAN REPAYMENT ACT; PROVIDING POWERS AND DUTIES; GRANTING LOAN REPAYMENT AWARDS TO PUBLIC SERVICE WORKERS; PROVIDING FOR CONTRACTS, CONTRACT CANCELLATIONS AND CONTRACT ENFORCEMENT; CREATING A FUND.

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

Chapter 16 Section 1 Laws 2015

SECTION 1. A new section of Chapter 21 NMSA 1978 is enacted to read:

"SHORT TITLE.--This act may be cited as the "Children, Youth and Families Worker Loan Repayment Act"."

Chapter 16 Section 2 Laws 2015

SECTION 2. A new section of Chapter 21 NMSA 1978 is enacted to read:

"PURPOSE.--The purpose of the Children, Youth and Families Worker Loan Repayment Act is to increase the number of public service workers employed with the children, youth and families department who are direct service providers in the protective services division or juvenile justice division of the children, youth and families department. That act provides for repayment of the principal and reasonable interest accrued on higher education loans obtained from the federal government or a commercial lender."

Chapter 16 Section 3 Laws 2015

SECTION 3. A new section of Chapter 21 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Children, Youth and Families Worker Loan Repayment Act:

- A. "applicant" means a person applying for an award;
- B. "award" means the grant of money to repay loans;
- C. "critical field" means social work or other academic field of study that leads to a bachelor's or master's degree and that the children, youth and families department has determined to be critical to the work of the protective services division or juvenile justice division of the children, youth and families department;
- D. "department" means the higher education department;
- E. "fund" means the children, youth and families worker loan repayment fund;
- F. "loan" means a grant of money under contract between the student and the federal government or a commercial lender to defray the costs incidental to an undergraduate or master's level education in a critical field and that requires either repayment of principal and interest or repayment in services;
- G. "program" means the children, youth and families public service worker loan repayment program, which provides money to repay student loans in a critical field; and

H. "public service worker" means an employee of the children, youth and families department with a completed bachelor's or master's degree in a critical field who works directly with children and families in either the protective services division or juvenile justice division of the children, youth and families department. The children, youth and families department shall provide an annual list to the department of job classifications that qualify as "public service workers" for the purposes of the Children, Youth and Families Worker Loan Repayment Act."

Chapter 16 Section 4 Laws 2015

SECTION 4. A new section of Chapter 21 NMSA 1978 is enacted to read:

"POWERS AND DUTIES.--

A. The department may:

(1) grant an award to repay loans obtained for a public service worker upon such terms and conditions as may be imposed by rule of the department; and

(2) delegate to other agencies or contract for the performance of services required by the program.

B. An applicant must be a public service worker before applying for the program."

Chapter 16 Section 5 Laws 2015

SECTION 5. A new section of Chapter 21 NMSA 1978 is enacted to read:

"AWARDS--CRITERIA--CONTRACT TERMS.--

A. Prior to receiving an award, the public service worker shall file an application with the department that meets the criteria established by rule of the department.

B. The following debts are not eligible for repayment pursuant to the Children, Youth and Families Worker 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;

(4) loans that exceed individual standard school expense levels;
and

(5) loans that are eligible for another state or federal loan repayment program.

C. Award criteria shall provide that:

(1) the applicant has satisfactorily completed at least one year of service with the children, youth and families department as a public service worker;

(2) the percentage of repayment directly relates to years of service completed as a public service worker;

(3) the highest priority shall be given to public service workers who work in geographic areas or division positions where vacancies are difficult to fill as determined by the secretary of children, youth and families;

(4) award amounts may be modified based on available funding or other special circumstances; and

(5) an award for each public service worker shall not exceed twenty-five thousand dollars (\$25,000) or the loan indebtedness of the worker, whichever is less.

D. Every loan repayment award shall be evidenced by a contract between the public service worker and the department working on behalf of the state. The contract shall provide for the payment by the state of a stated sum to the public service worker's federal government or commercial lender and shall state the obligations of the public service worker under the program as established by the department.

E. The contract between a public service worker and the department shall provide that, if the public service worker does not comply with the terms of the contract, the public service worker shall reimburse the department for all loan payments made on the public service worker's behalf, plus reasonable interest at a rate to be determined by the department, unless the department finds acceptable extenuating circumstances for why the public service worker cannot serve or comply with the terms of the contract.

F. Loan repayment awards shall be in the form of payments from the fund directly to the federal government or commercial lender of a public service worker who has received the award and shall be considered a payment on behalf of the public service worker pursuant to the contract between the department and the public service worker. A loan repayment award shall not obligate the state or the department to a public service worker's lender for any other payment and shall not be considered to create any privity of contract between the state or the department and the lender.

G. The department, after consulting with the children, youth and families department, shall adopt rules to implement the provisions of the Children, Youth and Families Worker Loan Repayment Act. The rules:

(1) shall provide a procedure for determining the amount of a loan that will be repaid; and

(2) may provide for the disbursement of loan repayment awards to the lender in annual or other periodic installments."

Chapter 16 Section 6 Laws 2015

SECTION 6. A new section of Chapter 21 NMSA 1978 is enacted to read:

"CONTRACTS--ENFORCEMENT--CANCELLATION.--

A. The general form of a contract required pursuant to the Children, Youth and Families Worker Loan Repayment Act shall be prepared and approved by the department's general counsel; and each contract shall be signed by the public service worker and the secretary of higher education or the secretary's authorized representative on behalf of the state. The department is vested with full and complete authority and power to sue in its own name for any balance due the state from a public service worker under a loan repayment contract.

B. The department may cancel a contract made between it and a public service worker pursuant to the Children, Youth and Families Worker Loan Repayment Act for any reasonable cause deemed sufficient by the department."

Chapter 16 Section 7 Laws 2015

SECTION 7. A new section of Chapter 21 NMSA 1978 is enacted to read:

"LOAN REPAYMENT FUND CREATED.--The "children, youth and families worker loan repayment fund" is created in the state treasury. The fund consists of appropriations, repayment of awards and interest received by the department, income from investment of the fund, gifts, grants and donations. The fund shall be administered by the department, and money in the fund is appropriated to the department to make loan repayment awards pursuant to the Children, Youth and Families Worker Loan Repayment Act. Money in the fund at the end of a fiscal year shall not revert to any other fund. All payments for loan repayment awards shall be made on warrants of the secretary of finance and administration on vouchers signed by the secretary of higher education or the secretary's authorized representative."

Chapter 16 Section 8 Laws 2015

SECTION 8. A new section of Chapter 21 NMSA 1978 is enacted to read:

"REPORTS.--The department shall make annual reports to the governor and the legislature prior to each regular session of its activities, the loan repayment awards granted and the title and job duties of each loan recipient. The report shall also include any contract cancellations and any enforcement actions the department has taken."

Chapter 16 Section 9 Laws 2015

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 341

Approved April 1, 2015

LAWS 2015, CHAPTER 17

AN ACT

RELATING TO TAX CREDITS; AMENDING THE AFFORDABLE HOUSING TAX CREDIT ACT BY CHANGING THE DEFINITION OF "PERSON".

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

Chapter 17 Section 1 Laws 2015

SECTION 1. Section 7-9I-2 NMSA 1978 (being Laws 2005, Chapter 104, Section 18, as amended) is amended to read:

"7-9I-2. DEFINITIONS.--As used in the Affordable Housing Tax Credit Act:

A. "affordable housing project" means land acquisition, construction, building acquisition, remodeling, improvement, rehabilitation, conversion or weatherization for residential housing that is approved by the authority and that includes single-family housing or multifamily housing;

B. "authority" means the New Mexico mortgage finance authority;

C. "department" means the taxation and revenue department;

D. "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate

telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the affordable housing tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes and governmental gross receipts taxes; and

E. "person" means an individual, tribal government, housing authority, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization."

Chapter 17 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 62

Approved April 1, 2015

LAWS 2015, CHAPTER 18

AN ACT

RELATING TO TAXATION; DEFERRING THE EXPIRATION OF THE DEDUCTION FROM GROSS RECEIPTS FOR CERTAIN MILITARY ACQUISITION PROGRAMS; REQUIRING REPORTING.

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

Chapter 18 Section 1 Laws 2015

SECTION 1. Section 7-9-94 NMSA 1978 (being Laws 2005, Chapter 104, Section 23, as amended) is amended to read:

"7-9-94. DEDUCTION--GROSS RECEIPTS--MILITARY TRANSFORMATIONAL ACQUISITION PROGRAMS.--

A. Receipts from transformational acquisition programs performing research and development, test and evaluation at New Mexico major range and test facility bases pursuant to contracts entered into with the United States department of defense may be deducted from gross receipts through June 30, 2025.

B. As used in this section, "transformational acquisition program" means a military acquisition program authorized by the office of the secretary of defense force transformation and not physically tested in New Mexico on or before July 1, 2005.

C. The deduction provided in this section does not apply to receipts of a prime contractor operating facilities designated as a national laboratory by act of congress and is not applicable to current force programs as of July 1, 2005.

D. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. No later than December 1 of each year that the deduction is in effect, 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 and benefit to the state of the deduction."

Senate Bill 448, aa

Approved April 1, 2015

LAWS 2015, CHAPTER 19

AN ACT

RELATING TO CULTURAL AFFAIRS; STANDARDIZING MUSEUM AND MONUMENT BOARD AND DIRECTOR DUTIES; AUTHORIZING THE HISTORIC PRESERVATION DIVISION TO CHARGE FEES FOR CERTAIN SERVICES; PROVIDING OTHER CLEANUP OF STATUTES; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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

Chapter 19 Section 1 Laws 2015

SECTION 1. Section 18-3-9 NMSA 1978 (being Laws 2005, Chapter 277, Section 1) is recompiled as Section 9-4A-22 NMSA 1978 and is amended to read:

"9-4A-22. STATE MUSEUMS IMPROVEMENTS AND EXHIBITS FUND CREATED--USE.--

A. The "state museums improvements and exhibits fund" is created in the state treasury. The fund consists of:

(1) money appropriated and transferred to the fund;

(2) gifts, grants, donations and bequests; and

(3) fifteen percent of the state museums' admission fees, facilities rentals and revenues earned from licensure or sale of intellectual property.

B. Earnings from investment of the state museums improvements and exhibits fund shall be credited to the fund. Money in the fund is appropriated to the department to be distributed to state museums pursuant to the provisions of this section. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of cultural affairs.

C. Money in the state museums improvements and exhibits fund shall be expended by the department for development, implementation and maintenance of exhibitions at state museums and for maintenance and repairs of state museum facilities. Revenues in the fund earned by a specific division shall be expended by that division.

D. As used in this section, "state museum" means a museum, historic site, monument, cultural center or laboratory administered by the department."

Chapter 19 Section 2 Laws 2015

SECTION 2. Section 14-3-3 NMSA 1978 (being Laws 1959, Chapter 245, Section 3, as amended) is amended to read:

"14-3-3. STATE COMMISSION OF PUBLIC RECORDS--CREATION.--

A. A "state commission of public records" is established consisting of:

(1) the secretary of state;

(2) the secretary of general services;

(3) the librarian of the supreme court law library;

(4) the secretary of cultural affairs;

(5) the state auditor;

(6) the attorney general; and

(7) a recognized, professionally trained historian in the field of New Mexico history, who is a resident in New Mexico, appointed by the governor for a term of six years.

B. Each member of the commission may designate an alternate to serve in the member's stead.

C. The commission shall elect one of its members to be chair and another to be secretary. The members of the commission shall serve without compensation other than actual expenses of attending meetings of the commission or while in performance of their official duties in connection with the business of the commission.

D. The commission shall hold not less than four meetings during each calendar year and may hold special meetings as may be necessary to transact business of the commission. All meetings shall be called by the chair or when requested in writing by any two members of the commission. Four members of the commission shall constitute a quorum.

E. The administrator shall attend all meetings of the commission."

Chapter 19 Section 3 Laws 2015

SECTION 3. Section 18-3-3 NMSA 1978 (being Laws 1978, Chapter 164, Section 2, as amended) is amended to read:

"18-3-3. MUSEUM OF NEW MEXICO BOARD OF REGENTS--POWERS AND DUTIES.--The museum board of regents shall:

A. elect from among its members a president and other officers deemed necessary by it;

B. establish museum of New Mexico policy and determine the mission and direct the development of the museum;

C. solicit funds for the purpose of developing, restoring and equipping the museum and its property and for the purchase of objects and works of art for its collections and for the development of exhibits and other public programs;

D. exercise trusteeship over the collections of the museum;

E. hold title to all property for museum use;

F. acquire objects of historical, archaeological and ethnological interest and works of fine art, folk art and craft of interest to the public and real property for museum use or benefit by purchase, donation and bequest;

G. adopt rules as appropriate governing:

(1) the loan of objects and exhibits to qualified institutions and agencies for the purpose of exhibition;

(2) gifts, donations or loans of exhibit or collection materials for the museum;

(3) the licensure of the museum's intellectual property; and

(4) other matters necessary to carry out the provisions of Chapter 18, Article 3 NMSA 1978;

H. enter into leases with public or private agencies or organizations for the use of museum premises or facilities as appropriate for periods that exceed forty-five days;

I. cooperate with other agencies and political subdivisions of municipal, state, tribal and federal governments and private organizations and individuals to the extent necessary to establish and maintain the museum and its programs;

J. subject to other provisions of law and excepting temporary statewide initiatives of the secretary of cultural affairs, impose admission fees to the museum facilities and programs; and

K. review annually the performance of its directors and report its findings to the secretary of cultural affairs."

Chapter 19 Section 4 Laws 2015

SECTION 4. A new Section 18-3-18 NMSA 1978 is enacted to read:

"18-3-18. MUSEUM OF NEW MEXICO DIVISIONS--DIRECTORS--POWERS AND DUTIES.--Consistent with the policies of the secretary of cultural affairs and the board of regents, each director of a museum of New Mexico division:

A. may:

(1) solicit and receive funds or property, including federal funds and public and private grants, for the development of the museum, its collections and its programs;

(2) as authorized by the secretary, enter into contracts related to the programs and operations of the museum, including services related to the location, acquisition, preservation, restoration, salvage or development of culturally related sites, structures or objects in the state;

(3) as authorized by the board of regents, lend collections or materials to qualified persons for purposes of exhibition and study and borrow collections or materials from other persons for like purposes;

(4) conduct facilities rentals for forty-five days or less and such retail sales as appropriate for the operation of the museum; and

(5) publish journals, books, reports and other materials as appropriate to the operation of the museum; and

B. shall:

(1) administer and operate the museum in accordance with applicable statutes and rules;

(2) develop exhibits and programs of an educational nature for the benefit of the public and in particular the students of the state;

(3) recommend acquisitions to the board of regents, by donation or other means, of collections and related materials appropriate to the mission of the museum;

(4) direct research, preservation and conservation as is appropriate to render the collections beneficial to the public;

(5) cooperate with educational institutions and other agencies and political subdivisions of state, tribal and federal governments to establish, maintain and extend the programs of the museum;

(6) employ and discharge personnel necessary for the operation of the museum in accordance with the provisions of the Personnel Act;

(7) propose budgets for operations and capital improvements;

(8) collect admission fees as determined by the board of regents;

and

(9) perform such other appropriate duties as may be delegated by the board of regents, the secretary of cultural affairs or the governor or as may be provided by law."

Chapter 19 Section 5 Laws 2015

SECTION 5. Section 18-3A-7 NMSA 1978 (being Laws 1987, Chapter 38, Section 5, as amended) is amended to read:

"18-3A-7. BOARD--POWERS AND DUTIES.--The board shall:

A. exercise trusteeship over the collections of the museum;

B. accept and hold title to all property for museum use;

C. acquire objects of natural history and science of interest to the public and real property for museum use or benefit by purchase, donation or bequest;

D. review annually the performance of the director and report its findings to the secretary of cultural affairs;

E. adopt rules as appropriate governing:

(1) the loan of objects and exhibits to qualified institutions and agencies for the purpose of exhibition;

(2) gifts, donations or loans of exhibit or collection materials for museum use;

(3) the licensure of the museum's intellectual property; and

(4) other matters necessary to carry out the provisions of this section;

F. enter into leases with public or private organizations or agencies for the use of museum premises or facilities for periods of time that exceed forty-five days;

G. solicit funds or property of any nature for the development, restoration or equipping of the museum, its collections, exhibits and programs;

H. cooperate with other agencies and political subdivisions of state, tribal and federal governments and private organizations and individuals to the extent necessary to establish and maintain the museum and its programs;

I. subject to other provisions of law and excepting temporary statewide initiatives of the secretary of cultural affairs, impose admission fees to the museum facilities and programs; and

J. establish museum policy and determine the mission and direct the development of the institution subject to the approval of the secretary of cultural affairs."

Chapter 19 Section 6 Laws 2015

SECTION 6. Section 18-3A-9 NMSA 1978 (being Laws 1980, Chapter 128, Section 9, as amended) is repealed and a new Section 18-3A-9 NMSA 1978 is enacted to read:

"18-3A-9. DIRECTOR--POWERS AND DUTIES.--Consistent with the policies agreed to by the board and the secretary of cultural affairs, the director:

A. may:

(1) solicit and receive funds or property, including federal funds and public and private grants, for the development of the museum, its collections and its programs;

(2) as authorized by the secretary, enter into contracts related to the programs and operations of the museum, including services related to the location, acquisition, preservation, restoration, salvage or development of culturally related sites, structures or objects in the state;

(3) as authorized by the board, lend collections or materials to qualified persons for purposes of exhibition and study and borrow collections or materials from other persons for like purposes;

(4) conduct facilities rentals for forty-five days or less and such retail sales as appropriate for the operation of the museum; and

(5) publish journals, books, reports and other materials as appropriate to the operation of the museum; and

B. shall:

(1) administer and operate the museum in accordance with applicable statutes and rules;

(2) develop exhibits and programs of an educational nature for the benefit of the public and in particular the students of the state;

(3) recommend acquisitions to the board, by donation or other means, of collections and related materials appropriate to the mission of the museum;

(4) direct research, preservation and conservation as is appropriate to render the collections beneficial to the public;

(5) cooperate with educational institutions and other agencies and political subdivisions of state, tribal and federal governments to establish, maintain and extend the programs of the museum;

(6) employ and discharge personnel necessary for the operation of the museum in accordance with the provisions of the Personnel Act;

(7) propose budgets for operations and capital improvements;

(8) collect admission fees as determined by the board; and

(9) perform such other appropriate duties as may be delegated by the board, the secretary of cultural affairs or the governor or as may be provided by law."

Chapter 19 Section 7 Laws 2015

SECTION 7. Section 18-6-8 NMSA 1978 (being Laws 1977, Chapter 246, Section 38, as amended) is amended to read:

"18-6-8. STATE HISTORIC PRESERVATION OFFICER--APPOINTMENT--QUALIFICATIONS--DUTIES.--

A. The "historic preservation division" is created within the cultural affairs department.

B. The state historic preservation officer shall be the director of the division and shall be hired by the secretary of cultural affairs with the consent of the governor. The position's qualifications shall be consistent with but not limited to the following:

(1) a graduate degree in American history, anthropology, architecture or historic preservation;

(2) at least five years of professional experience in American history, anthropology, architecture or historic preservation or any combination of these; or

(3) a substantial contribution through research and publication to the body of scholarly knowledge in the field of American history, anthropology, architecture or historic preservation or any combination of these.

C. The state historic preservation officer shall administer the Cultural Properties Act, including but not limited to being administrative head of all Cultural Properties Act functions assigned to the historic preservation division by law or executive order. In addition, the state historic preservation officer shall coordinate all duties performed by, and cooperate with, the committee, the secretary of cultural affairs and any other entities, public or private, involved with cultural properties.

D. The state historic preservation officer, in conjunction with the secretary of cultural affairs:

(1) shall provide staff to the committee;

(2) shall maintain the state register of cultural properties;

(3) may fund historic site surveys and may fund restorations;

(4) shall administer historic preservation tax benefit programs;

(5) shall review state undertakings to determine their effect upon significant historic properties; and

(6) shall adopt and promulgate rules regulating the use of the division's statewide historic and prehistoric site databases and archives, including a fee schedule to cover the reasonable cost of using the databases and archives.

E. Fees collected pursuant to Paragraph (6) of Subsection D of this section shall be used to maintain and administer the division's statewide historic and prehistoric site databases and archives."

Chapter 19 Section 8 Laws 2015

SECTION 8. Section 18-7-3 NMSA 1978 (being Laws 1978, Chapter 72, Section 3, as amended) is repealed and a new Section 18-7-3 NMSA 1978 is enacted to read:

"18-7-3. NEW MEXICO MUSEUM OF SPACE HISTORY COMMISSION--
POWERS AND DUTIES.--The New Mexico museum of space history commission shall:

A. establish museum of space history policy and determine the mission and direct the development of the museum subject to the approval of the secretary of cultural affairs;

B. hold title to all property for museum use;

C. exercise trusteeship over the collections of the museum;

D. acquire objects relating to the history of rocketry, space flight, astronomy and related fields of interest to the public and real property for museum use or benefit by purchase, donation and bequest;

E. solicit funds for the purpose of developing, restoring and equipping the museum and its property and for the purchase of objects and works of art for its collections and for the development of exhibits and other public programs;

F. adopt rules as appropriate governing:

(1) the loan of objects and exhibits to qualified institutions and agencies for the purpose of exhibition;

(2) gifts, donations or loans of exhibit or collection materials for the museum;

(3) the licensure of the museum's intellectual property; and

(4) other matters necessary to carry out the provisions of Chapter 18, Article 7 NMSA 1978;

G. enter into leases with public or private organizations or agencies for the use of museum premises or facilities for periods of time that exceed forty-five days;

H. cooperate with other agencies and political subdivisions of state, tribal and federal governments and private organizations and individuals to the extent necessary to establish and maintain the museum and its programs;

I. subject to other provisions of law and excepting temporary statewide initiatives of the secretary of cultural affairs, impose admission fees to the museum facilities and programs; and

J. review annually the performance of the director and report its findings to the secretary of cultural affairs."

Chapter 19 Section 9 Laws 2015

SECTION 9. Section 18-7-4 NMSA 1978 (being Laws 1978, Chapter 72, Section 4, as amended) is amended to read:

"18-7-4. MUSEUM OF SPACE HISTORY DIRECTOR--APPOINTMENT--QUALIFICATIONS.--

A. Subject to the authority of the secretary of cultural affairs, the administrative and executive officer of the museum of space history division and the museum of space history is the "director" of the division.

B. The director shall meet the following minimum qualifications:

(1) hold a bachelor's or higher degree in a discipline related to the functions of the division; and

(2) have significant experience in the management and operation of an organization similar to the division.

C. The director of the museum of space history division shall be appointed by the secretary of cultural affairs with the approval of the governor from a list of qualified candidates provided by the museum of space history commission."

Chapter 19 Section 10 Laws 2015

SECTION 10. A new section of Chapter 18, Article 7 NMSA 1978 is enacted to read:

"MUSEUM OF SPACE HISTORY DIRECTOR DUTIES.--Consistent with the policies of the secretary of cultural affairs and the New Mexico museum of space history commission, the director of the museum of space history:

A. may:

(1) solicit and receive funds or property, including federal funds and public and private grants, for the development of the museum, its collections and its programs;

(2) as authorized by the secretary, enter into contracts related to the programs and operations of the museum, including services related to the location, acquisition, preservation, restoration, salvage or development of culturally related sites, structures or objects in the state;

(3) as authorized by the commission, lend collections or materials to qualified persons for purposes of exhibition and study and borrow collections or materials from other persons for like purposes;

(4) conduct facilities rentals for forty-five days or less and such retail sales as appropriate for the operation of the museum; and

(5) publish journals, books, reports and other materials as appropriate to the operation of the museum; and

B. shall:

(1) administer and operate the museum in accordance with applicable statutes and rules;

(2) develop exhibits and programs of an educational nature for the benefit of the public and in particular the students of the state;

(3) recommend acquisitions to the commission, by donation or other means, of collections and related materials appropriate to the mission of the museum;

(4) direct research, preservation and conservation as is appropriate to render the collections beneficial to the public;

(5) cooperate with educational institutions and other agencies and political subdivisions of state, tribal and federal governments to establish, maintain and extend the programs of the museum;

(6) employ and discharge personnel necessary for the operation of the museum in accordance with the provisions of the Personnel Act;

(7) propose budgets for operations and capital improvements;

(8) collect admission fees as determined by the commission; and

(9) perform such other appropriate duties as may be delegated by the commission, the secretary of cultural affairs or the governor or as may be provided by law."

Chapter 19 Section 11 Laws 2015

SECTION 11. Section 18-11-5 NMSA 1978 (being Laws 1991, Chapter 48, Section 5, as amended) is amended to read:

"18-11-5. BOARD CREATED--APPOINTMENT--TERMS--OFFICERS.--

A. The "board of the farm and ranch heritage museum" is created.

B. The board shall consist of one nonvoting member and eleven voting members who are residents of New Mexico, as follows:

(1) nine members shall be appointed by the governor with the advice and consent of the senate. Five of those nine members shall be farmers or ranchers and four members shall be from the general public. The five farmer and rancher members of the original board shall be appointed from a list of eight names submitted by the board of directors of the New Mexico farm and ranch heritage institute foundation, incorporated, from a list of persons recommended by farm and ranch organizations. When a vacancy occurs in any of the five farmer and rancher positions, two names shall be submitted to the governor by the board for each vacancy from a list of persons recommended by farm and ranch organizations. No more than five of the nine appointed members shall be from the same political party. In making these appointments, due consideration shall be given to the distribution of places of residence and to individual interests and backgrounds in farming and ranching. Initially, two members shall be appointed for terms of two years, three members shall be appointed for terms of three years and three members shall be appointed for terms of four years. The member appointed pursuant to this 2015 amendment shall serve an initial term of two years. Thereafter, members of the board shall be appointed for terms of four years or less so that the staggered expiration dates are maintained;

(2) the following shall have permanent seats on the board:

(a) the director of the New Mexico department of agriculture or the director's designee; and

(b) the dean of the college of agriculture and home economics of New Mexico state university or the dean's designee; and

(3) the director shall be a nonvoting member of the board.

C. A member of the board shall not be removed during the member's term except for misconduct, incompetence, neglect of duty or malfeasance in office. No removal shall be made without prior approval of the senate.

D. The chair of the board and other officers, as deemed necessary by the board, shall be elected by the board annually at its first scheduled meeting after July 1."

Chapter 19 Section 12 Laws 2015

SECTION 12. Section 18-11-7 NMSA 1978 (being Laws 1991, Chapter 48, Section 7, as amended) is amended to read:

"18-11-7. BOARD--POWERS AND DUTIES.--The board shall:

A. establish museum policy and determine the mission and direct the development of the museum subject to the approval of the secretary of cultural affairs;

B. exercise trusteeship over the collections of the museum;

C. accept and hold title to all property for museum use;

D. acquire objects relating to farming and ranching of interest to the public and real property for museum use or benefit by purchase, donation or bequest;

E. adopt rules as appropriate governing:

(1) the loan of objects and exhibits to qualified institutions and agencies for the purpose of exhibition;

(2) gifts, donations or loans of exhibits or collection materials for the museum;

(3) the licensure of the museum's intellectual property; and

(4) other matters necessary to carry out the provisions of the Farm and Ranch Heritage Museum Act;

F. enter into leases with public or private agencies or organizations for the use of museum premises or facilities for periods of time that exceed forty-five days;

G. solicit funds or property for the purpose of developing, restoring and equipping the museum, its collections and its programs and for the purchase of objects for its collections and for the development of exhibits and other public programs;

H. cooperate with other agencies and political subdivisions of state, tribal and federal governments and private organizations and individuals to the extent necessary to establish and maintain the museum and its programs;

I. subject to other provisions of law and excepting temporary statewide initiatives of the secretary of cultural affairs, impose admission fees to the museum facilities and programs; and

J. review annually the performance of the director and report its findings to the secretary of cultural affairs."

Chapter 19 Section 13 Laws 2015

SECTION 13. Section 18-11-9 NMSA 1978 (being Laws 1991, Chapter 48, Section 9, as amended) is repealed and a new Section 18-11-9 NMSA 1978 is enacted to read:

"18-11-9. DIRECTOR--POWERS AND DUTIES.--Consistent with the policies agreed to by the board and the secretary of cultural affairs, the director:

A. may:

(1) solicit and receive funds or property, including federal funds and public and private grants, for the development of the museum, its collections and its programs;

(2) as authorized by the secretary, enter into contracts related to the programs and operations of the museum, including services related to the location, acquisition, preservation, restoration, salvage or development of culturally related sites, structures or objects in the state;

(3) as authorized by the board, lend collections or materials to qualified persons for purposes of exhibition and study and borrow collections or materials from other persons for like purposes;

(4) conduct facilities rentals for forty-five days or less and such retail sales as appropriate for the operation of the museum; and

(5) publish journals, books, reports and other materials as appropriate to the operation of the museum; and

B. shall:

(1) administer and operate the museum in accordance with applicable statutes and rules;

(2) develop exhibits and programs of an educational nature for the benefit of the public and in particular the students of the state;

(3) recommend acquisitions to the board, by donation or other means, of collections and related materials appropriate to the mission of the museum;

(4) direct research, preservation and conservation as is appropriate to render the collections beneficial to the public;

(5) cooperate with educational institutions and other agencies and political subdivisions of state, tribal and federal governments to establish, maintain and extend the programs of the museum;

(6) employ and discharge personnel necessary for the operation of the museum in accordance with the provisions of the Personnel Act;

(7) propose budgets for operations and capital improvements;

(8) collect admission fees as determined by the board; and

(9) perform such other appropriate duties as may be delegated by the board, the secretary of cultural affairs or the governor or as may be provided by law."

Chapter 19 Section 14 Laws 2015

SECTION 14. A new section of the Farm and Ranch Heritage Museum Act is enacted to read:

"MUSEUM ADMISSION POLICY.--The board shall establish a policy to allow New Mexico residents age sixty years and over to enter all publicly accessible exhibit and program areas, except special exhibits and programs for which commissions or royalties are paid by contract, free of charge every Wednesday that is not a holiday that the museum is open."

Chapter 19 Section 15 Laws 2015

SECTION 15. Section 18-12-4 NMSA 1978 (being Laws 1993, Chapter 42, Section 4, as amended) is amended to read:

"18-12-4. BOARD OF DIRECTORS--CREATED--APPOINTMENT--TERMS--OFFICERS.--

A. The "board of directors of the national Hispanic cultural center" is created. The board shall consist of fifteen residents of New Mexico. Thirteen public members shall be appointed by the governor with the advice and consent of the senate.

Two of the appointees shall be employees of state institutions of higher education or appropriate state agencies. In making the appointments, the governor shall give due consideration to:

(1) the ethnic, economic and geographic diversity of the state;

(2) individuals who have demonstrated an awareness of and support for traditional and contemporary Hispanic culture, arts and humanities, including a strong knowledge of New Mexico Hispanic history; and

(3) individuals who are knowledgeable in the areas of Hispanic performing, visual and oral arts, genealogy, family issues, education, business and administration.

B. The public members shall be appointed for staggered four-year terms.

C. Two private members shall be appointed by the board of a nonprofit organization that has an operating agreement with the center that complies with the provisions of Section 6-5A-1 NMSA 1978. The private members shall be appointed for one-year terms expiring on June 30 of each year.

D. A majority of the board members currently serving shall constitute a quorum at any meeting or hearing.

E. A public member failing to attend three consecutive meetings after receiving proper notice shall be recommended for removal by the governor. The governor may also remove a public member of the board for neglect of any duty required by law, for incompetency, for unprofessional conduct or for violating any provisions of the National Hispanic Cultural Center Act. If a vacancy occurs on the board, the original appointing authority shall appoint another member to complete the unexpired term.

F. The executive director shall be an ex-officio nonvoting member of the board.

G. The governor shall designate the president of the board, who shall serve in that capacity at the pleasure of the governor. The board may elect other officers from among its membership."

Chapter 19 Section 16 Laws 2015

SECTION 16. Section 18-12-5 NMSA 1978 (being Laws 1993, Chapter 42, Section 5, as amended) is amended to read:

"18-12-5. BOARD--POWERS AND DUTIES.--

A. The board shall:

- (1) exercise trusteeship over the collections of the center;
- (2) accept and hold title to all property for the center's use;
- (3) review annually the performance of the director and report its findings to the secretary of cultural affairs;
- (4) acquire objects relating to Hispanic culture and history of interest to the public and real property for the center's use or benefit by purchase, donation and bequest;
- (5) solicit funds or property for the development of the center, its collections and its programs;
- (6) adopt rules as appropriate governing:
 - (a) the loan of objects and exhibits to qualified institutions and agencies for the purpose of exhibition;
 - (b) gifts, donations or loans of exhibit or collection materials to the center;
 - (c) the licensure of the center's intellectual property; and
 - (d) other matters necessary to carry out the provisions of the National Hispanic Cultural Center Act;
- (7) enter into leases with public or private organizations or agencies for the use of center premises or facilities for periods of time that exceed forty-five days;
- (8) cooperate with other agencies and political subdivisions of municipal, state, tribal and federal governments and private organizations and individuals to the extent necessary to establish and maintain the center and its programs;
- (9) subject to other provisions of law and excepting temporary statewide initiatives of the secretary of cultural affairs, impose admission fees to the center's facilities and programs; and
- (10) establish policy, determine the mission and direct the development of the center.

B. The board may, beginning July 1, 2015, enter into or remain a party to an operating agreement with a nonprofit organization only if the operating agreement

allows the governing board of the nonprofit organization to appoint two of its voting board members to serve on the center's board and only if the governing board of the nonprofit organization has at least five members.

C. If a person is concurrently a member of the center's board and a member of the governing board of the nonprofit organization that has an operating agreement with the board that complies with Section 6-5A-1 NMSA 1978, that person shall not vote on matters relating to the operating agreement."

Chapter 19 Section 17 Laws 2015

SECTION 17. Section 18-12-7 NMSA 1978 (being Laws 1993, Chapter 42, Section 7, as amended) is repealed and a new Section 18-12-7 NMSA 1978 is enacted to read:

"18-12-7. DIRECTOR--POWERS AND DUTIES.--Consistent with the policies of the secretary of cultural affairs and the board, the director:

A. may:

(1) solicit and receive funds or property, including federal funds and public and private grants, for the development of the center, its collections and its programs;

(2) as authorized by the secretary, enter into contracts related to the programs and operations of the center, including services related to the location, acquisition, preservation, restoration, salvage or development of culturally related sites, structures or objects in the state;

(3) as authorized by the board, lend collections or materials to qualified persons for purposes of exhibition and study and borrow collections or materials from other persons for like purposes;

(4) conduct facilities rentals for forty-five days or less and such retail sales as appropriate for the operation of the center; and

(5) publish journals, books, reports and other materials as appropriate to the operation of the center; and

B. shall:

(1) administer and operate the center in accordance with applicable statutes and rules;

(2) develop exhibits and programs of an educational nature for the benefit of the public and in particular the students of the state;

(3) recommend acquisitions to the board, by donation or other means, of collections and related materials appropriate to the mission of the center;

(4) direct research, preservation and conservation as is appropriate to render the collections beneficial to the public;

(5) cooperate with educational institutions and other agencies and political subdivisions of state, tribal and federal governments to establish, maintain and extend the programs of the center;

(6) employ and discharge personnel necessary for the operation of the center in accordance with the provisions of the Personnel Act;

(7) propose budgets for operations and capital improvements;

(8) collect admission fees as determined by the board; and

(9) perform such other appropriate duties as may be delegated by the board, the secretary of cultural affairs or the governor or as may be provided by law."

Chapter 19 Section 18 Laws 2015

SECTION 18. A new section of the National Hispanic Cultural Center Act is enacted to read:

"MUSEUM ADMISSION POLICY.--The board, the secretary of cultural affairs and the director shall establish and implement a policy to permit New Mexico residents age sixty years and above to enter all publicly accessible visual arts exhibit areas, except special exhibits where commission or royalties are paid by contract, free of charge every Wednesday that is not a holiday that the museum is open."

Chapter 19 Section 19 Laws 2015

SECTION 19. TEMPORARY PROVISION--RECOMPILATION.--

A. Section 9-4A-11 NMSA 1978 (being Laws 1949, Chapter 74, Section 1, as amended) is recompiled as Section 18-3-11 NMSA 1978.

B. Section 9-4A-13 NMSA 1978 (being Laws 2004, Chapter 25, Section 13, as amended) is recompiled as Section 18-3-12 NMSA 1978.

C. Section 9-4A-14 NMSA 1978 (being Laws 2004, Chapter 25, Section 14) is recompiled as Section 18-3-13 NMSA 1978.

D. Section 9-4A-15 NMSA 1978 (being Laws 2004, Chapter 25, Section 15) is recompiled as Section 18-3-14 NMSA 1978.

E. Section 9-4A-16 NMSA 1978 (being Laws 2004, Chapter 25, Section 16) is recompiled as Section 18-3-15 NMSA 1978.

F. Section 9-4A-17 NMSA 1978 (being Laws 2004, Chapter 25, Section 17, as amended) is recompiled as Section 18-3-16 NMSA 1978.

G. Section 9-4A-18 NMSA 1978 (being Laws 2004, Chapter 25, Section 18) is recompiled as Section 18-3-17 NMSA 1978.

Chapter 19 Section 20 Laws 2015

SECTION 20. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 450, aa

Approved April 1, 2015

LAWS 2015, CHAPTER 20

AN ACT

RELATING TO PARKS; CREATING THE RIO GRANDE TRAIL COMMISSION TO RECOMMEND POLICIES TO ESTABLISH A RIO GRANDE TRAIL; CREATING THE RIO GRANDE TRAIL FUND.

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

Chapter 20 Section 1 Laws 2015

SECTION 1. RIO GRANDE TRAIL COMMISSION CREATED--MEMBERSHIP--FUND CREATED--ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT.--

A. The "Rio Grande trail commission" is created to establish the Rio Grande trail to run the length of the state from Colorado to Texas. The Rio Grande trail shall be a recreation trail for New Mexico residents and visitors to enjoy the natural beauty of New Mexico and the Rio Grande and learn about the culture and history of New Mexico. The trail shall be established in a manner that seeks to minimize environmental impacts and preserve sensitive habitat. The commission shall define and

recommend viable path routes of the Rio Grande Trail, mitigate challenges related to its establishment and define and recommend other features, facilities and enhancements needed on the trail. The commission shall also make recommendations to the legislature as needed and report annually to the governor and the appropriate interim committees that deal with water and natural resources and rural and economic development. The commission shall consist of members appointed by the secretary of energy, minerals and natural resources and shall include:

(1) the secretary of energy, minerals and natural resources or the secretary's designee;

(2) the secretary of economic development or the secretary's designee;

(3) the secretary of Indian affairs or the secretary's designee;

(4) the secretary of transportation or the secretary's designee;

(5) the secretary of tourism or the secretary's designee;

(6) a representative from each of the following:

(a) an organization with trail management experience;

(b) the state parks division of the energy, minerals and natural resources department;

(c) an organization that specializes in river ecology and conservation, with specific experience in the stated area of the organization's expertise; and

(d) an organization that specializes in bird ecology and conservation, with specific experience in the stated area of the organization's expertise; and

(7) two members of the public interested in the Rio Grande trail development.

B. The secretary shall appoint the chair from among the members of the commission and invite federal entities to be a part of the commission as non-voting members, including the:

(1) bureau of land management;

(2) bureau of reclamation;

- (3) international boundary and water commission;
- (4) national park service;
- (5) United States army corps of engineers;
- (6) United States fish and wildlife service;
- (7) United States forest service; and
- (8) the offices of the New Mexico congressional delegation.

C. The commission shall collaborate and cooperate with the national park service's historic trails project for the El Camino Real historic trail from Mexico to northern New Mexico when appropriate.

D. The commission shall be administratively attached to and staffed by the energy, minerals and natural resources department. Members of the commission are entitled to per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance, contingent upon money being available for this purpose.

E. The commission shall:

- (1) meet at least three times annually;
- (2) define and recommend viable path routes of the Rio Grande trail that shall be contiguous where possible and include only land that is expressly authorized by the owner, including Indian nations, tribes or pueblos, for inclusion in the Rio Grande trail and not to be acquired by eminent domain;
- (3) mitigate challenges related to the Rio Grande trail's establishment, including facilitating negotiations and discussions with landowners and jurisdictions surrounding the Rio Grande;
- (4) define and recommend other features, facilities and enhancements needed on the Rio Grande trail;
- (5) identify appropriate opportunities for river recreation along the trail;
- (6) establish a Rio Grande trail commission web site to publish meeting notices, meeting minutes, commission trail recommendations and other appropriate materials;

(7) ensure that any recommended designation, construction and use of the trail will minimize environmental impacts;

(8) endeavor to avoid areas of significant habitat value and ensure that any recommended designation, design, construction or use of the trail will minimize the impact on habitat;

(9) consider the impacts on private and commercial interests;

(10) make recommendations to the legislature as needed;

(11) prepare and report annually to the governor and the appropriate interim legislative committees related to water and natural resources and economic development;

(12) consult with representatives of the following regarding issues within their jurisdiction in development of the Rio Grande trail:

(a) each of the conservancy or irrigation districts served by water in the Rio Grande;

(b) acequias adjoining the Rio Grande;

(c) counties adjoining the Rio Grande;

(d) land grants adjoining the Rio Grande;

(e) municipalities adjoining the Rio Grande; and

(f) Indian nations, tribes or pueblos adjoining the Rio Grande;

(13) actively engage the public in the planning process of the Rio Grande trail and display meeting notices, meeting minutes and official commission trail proposals on the Rio Grande trail commission's web site;

(14) where feasible, develop multiple options of trail routing, construction design and potential enhancements;

(15) prior to making any final decisions regarding trail designation, design and construction, hold public meetings to solicit public input and allow for a written comment period;

(16) make a final recommendation based on all factors, including public comments and environmental impacts. In implementation of the Rio Grande trail,

the secretary of energy, minerals and natural resources shall describe and publish any variance from commission recommendations on the commission's web site;

(17) to the extent feasible, select existing trails for the route of the Rio Grande trail;

(18) to the extent feasible, in the case of non-motorized existing trails, avoid widening these trails;

(19) in the case of new trails on public lands, construct the trails for non-motorized use; provided, however, that such trails may, but are not required to, be open to power-driven mobility devices for individuals with mobility impairments; and

(20) to the extent possible, avoid introduction of non-native material on the trail.

F. Eminent domain shall not be used to establish or construct the Rio Grande trail or features, facilities or enhancements associated with the trail.

G. The "Rio Grande trail fund" is created in the state treasury. The fund consists of appropriations, donations, grants to the fund, income from investment of the fund and money otherwise accruing to the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The energy, minerals and natural resources department shall administer the fund, and money in the fund is subject to appropriation by the legislature to the energy, minerals and natural resources department to develop, establish and support the Rio Grande trail. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources or the secretary's authorized representative.

Chapter 20 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

HEENC/House Bill 563, aa

Approved April 2, 2015

LAWS 2015, CHAPTER 21

AN ACT

REPEALING A SECTION OF LAW TO MAKE PERMANENT A 2013 LAW THAT PERMITS AIRLINE EMPLOYEES TO VOLUNTARILY TRADE SHIFTS AND THAT EXEMPTS AIRLINES FROM THE REQUIREMENTS OF PAYING EMPLOYEES ONE AND ONE-HALF TIMES AN EMPLOYEE'S HOURLY RATE OF PAY FOR EACH HOUR WORKED OVER FORTY HOURS IN ANY WEEK OF SEVEN DAYS IN WHICH THE AIRLINE HAS NOT REQUIRED OVERTIME HOURS AND EMPLOYEES HAVE VOLUNTARILY TRADED HOURS.

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

Chapter 21 Section 1 Laws 2015

SECTION 1. REPEAL.--Laws 2013, Chapter 216, Section 2 is repealed.

Senate Bill 70

Approved April 2, 2015

LAWS 2015, CHAPTER 22

AN ACT

RELATING TO LIVESTOCK; AMENDING AND REPEALING SECTIONS OF THE LIVESTOCK CODE TO CLARIFY THE DEFINITION OF "LIVESTOCK".

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

Chapter 22 Section 1 Laws 2015

SECTION 1. Section 77-2-1.1 NMSA 1978 (being Laws 1993, Chapter 248, Section 2, as amended by Laws 2001, Chapter 8, Section 2 and also by Laws 2001, Chapter 341, Section 2) 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 horses, asses, mules, 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. "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;

O. "inspector" means a livestock or brand inspector;

P. "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;

Q. "mark" means an ear tag or ownership mark that is not a brand;

R. "meat" means the edible flesh of poultry, birds or animals sold for human consumption and includes livestock, poultry and livestock and poultry products;

S. "mule" means a hybrid resulting from the cross of a horse and an ass;
and

T. "person" means an individual, firm, partnership, association, corporation or similar legal entity."

Chapter 22 Section 2 Laws 2015

SECTION 2. Section 77-9-3 NMSA 1978 (being Laws 1895, Chapter 6, Section 1, as amended) is amended to read:

"77-9-3. NECESSITY OF BRAND--REBRANDING REQUIRED--EXCEPTIONS.--

A. A person who owns livestock shall have and adopt a brand for them. The brand shall be applied with a hot iron on each animal except registered livestock that are properly identified by a legible tattoo and whose owner has been issued a certificate of brand exemption for the owner's herd by the board. Each brand shall be recorded in the office of the board.

B. Goats or sheep are not required to be branded with a hot iron. Goats or sheep may be identified by a legible tattoo, paint brand or other device as approved by the board.

C. Unbranded livestock, except offspring with a branded mother or offspring with a mother properly identified as provided in Subsection G of this section, shall be subject to seizure by a peace officer or livestock inspector and shall be handled and disposed of in the same manner as is provided for the handling and disposal of estrays.

D. Livestock that are purchased shall be rebranded by the new owner with the new owner's recorded brand within thirty days, except as provided in Section 77-9-4 NMSA 1978.

E. Subsection A of this section shall not apply to a person owning horses, mules or asses who has been issued a transportation permit as provided in Section 77-9-42 NMSA 1978 or who has a registration certificate for an animal from a recognized breed association or to any person owning horses, mules or asses that have been

identified by a freeze mark or a freeze brand recorded with the board. Freeze branding or freeze mark identification requires an iron, first submerged in a bath of liquid nitrogen, to be applied on each animal, resulting in a permanent loss of color in the hair or cessation of hair growth where the brand or mark has been applied.

F. This section does not apply to bison, swine, poultry, ratites, ostriches, emus, rheas, camelids and farmed cervidae.

G. This section does not apply to a person who owns cattle in confinement at a dairy or feedlot and who has elected to identify the cattle by an alternative means approved by the board for cattle held in those facilities. If cattle held in confinement and identified in accordance with this subsection are removed from confinement and otherwise held in the state, the provisions of Subsection A of this section shall be met prior to removal, unless the cattle are being delivered to an approved auction."

Chapter 22 Section 3 Laws 2015

SECTION 3. REPEAL.--Section 77-9-1.1 NMSA 1978 (being Laws 1999, Chapter 282, Section 46) is repealed.

Senate Bill 123, aa

Approved April 2, 2015

LAWS 2015, CHAPTER 23

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE INTERSTATE DISTANCE EDUCATION ACT; AUTHORIZING THE HIGHER EDUCATION DEPARTMENT TO CONDUCT THE INTERSTATE DISTANCE EDUCATION PROGRAM; EXEMPTING FROM THE OUT-OF-STATE PROPRIETARY SCHOOL ACT COURSES PROVIDED UNDER THE INTERSTATE DISTANCE EDUCATION ACT; MAKING A TECHNICAL CORRECTION IN SECTION 21-1-26.1 NMSA 1978 (BEING LAWS 1980, CHAPTER 145, SECTION 2, AS AMENDED).

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

Chapter 23 Section 1 Laws 2015

SECTION 1. A new section of Chapter 21 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Interstate Distance Education Act"."

Chapter 23 Section 2 Laws 2015

SECTION 2. A new section of Chapter 21 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Interstate Distance Education Act:

A. "accreditation" means the status of public recognition that an accrediting agency recognized by the United States department of education pursuant to Title 4 of the federal Higher Education Act of 1965 grants to an institution or educational program that meets the department's established requirements;

B. "complaint" means a formal written assertion that a provision of an agreement pursuant to Subsection B of Section 3 of the Interstate Distance Education Act is being or has been violated;

C. "department" means the higher education department;

D. "distance education" means instruction offered online or through correspondence or interactive video or other means enabling a student in one state to receive instruction from a higher education provider in another state;

E. "higher education" means education or training beyond secondary education;

F. "operate" means providing instruction, marketing, recruiting, tutoring, field experiences and other services for students in support of offering distance education;

G. "physical presence" means the ongoing occupation of a physical location in the state for, or the ongoing maintenance of an administrative office to support, the provision of higher education instruction;

H. "post-secondary educational institution" includes public post-secondary educational institutions and private post-secondary educational institutions;

I. "private post-secondary educational institution" means an educational institution that:

(1) operates in the state under the provisions of the Post-Secondary Educational Institution Act;

(2) has a physical presence in the state; and

(3) is not a public post-secondary educational institution;

J. "public post-secondary educational institution" means:

(1) a branch community college of a state educational institution established pursuant to Chapter 21, Article 13 NMSA 1978;

(2) a community college or technical and vocational institute established pursuant to Chapter 21, Article 16 NMSA 1978; and

(3) eastern New Mexico university, western New Mexico university, New Mexico highlands university, northern New Mexico college, the university of New Mexico, New Mexico state university or the New Mexico institute of mining and technology, New Mexico Military Institute; and

K. "state authorization reciprocity agreement" means an agreement, developed by the national council for state authorization reciprocity agreements, that provides uniform standards and parameters for the interstate provision of post-secondary distance education courses and programs."

Chapter 23 Section 3 Laws 2015

SECTION 3. A new section of Chapter 21 NMSA 1978 is enacted to read:

"INTERSTATE DISTANCE EDUCATION PROGRAM--AGREEMENT.--

A. The department shall establish a program for facilitating:

(1) the receipt of distance education by students in the state; and

(2) the provision of distance education by participating post-secondary educational institutions to students in other states.

B. In furtherance of the provisions of Subsection A of this section, the department may enter into:

(1) an agreement for the western interstate commission for higher education to administer and the state to participate in a state authorization reciprocity agreement; or

(2) a reciprocal agreement with another state for the:

(a) receipt by students in the state of distance education from the other state's institutions that provide higher education instruction and are approved for participation in the reciprocal agreement by the appropriate agency of the other state; and

(b) provision of distance education by participating post-secondary educational institutions to students in the other state.

C. The department may terminate an agreement entered into pursuant to Subsection B of this section pursuant to the provisions of that agreement or department rule."

Chapter 23 Section 4 Laws 2015

SECTION 4. A new section of Chapter 21 NMSA 1978 is enacted to read:

"PROGRAM PARTICIPATION BY POST-SECONDARY EDUCATIONAL INSTITUTIONS--QUALIFICATIONS.--

A. The department shall provide an application form to allow post-secondary educational institutions to apply to participate in the interstate distance education program.

B. The department shall establish qualifications that an applicant shall demonstrate for acceptance as a participating post-secondary educational institution. At a minimum, the department shall require an applicant to provide documentation showing:

(1) compliance with the interregional guidelines for the evaluation of distance education programs adopted by the council of regional accrediting commissions;

(2) current accreditation; and

(3) for private post-secondary educational institutions, a financial responsibility composite score of one and five-tenths or greater as assigned by the United States department of education in its most recent fiscal year report.

C. An applicant accepted for participation in the interstate distance education program shall enter into a participation agreement with the department."

Chapter 23 Section 5 Laws 2015

SECTION 5. A new section of Chapter 21 NMSA 1978 is enacted to read:

"MONITORING--COMPLAINT RESOLUTION--SANCTIONS.--

A. The department shall regularly monitor the compliance of participating post-secondary educational institutions with the Interstate Distance Education Act.

B. Upon the receipt of a complaint about a participating post-secondary educational institution, the department shall timely:

(1) monitor the resolution process and resolution by the post-secondary educational institution and document the resolution; or

(2) investigate the complaint, conduct or coordinate a resolution process appropriate for responding to the complaint and document the resolution.

C. The department may sanction a participating post-secondary educational institution that:

(1) fails to resolve a complaint or comply with the department's efforts to respond to a complaint pursuant to Subsection B of this section; or

(2) violates a provision of the Interstate Distance Education Act or an agreement pursuant to Section 3 of that act.

D. Sanctions the department may impose include:

(1) requiring the payment of fees, fine or other monetary remedies;
or

(2) the termination or nonrenewal of the participation agreement entered into pursuant to Subsection C of Section 4 of the Interstate Distance Education Act."

Chapter 23 Section 6 Laws 2015

SECTION 6. A new section of Chapter 21 NMSA 1978 is enacted to read:

"RULES--REPORTING.--

A. The department shall publish rules for conducting the interstate distance education program.

B. By July 31, 2016 and each subsequent year, the department shall report to the legislative finance committee and the legislative education study committee on the interstate distance education program."

Chapter 23 Section 7 Laws 2015

SECTION 7. Section 21-1-26.1 NMSA 1978 (being Laws 1980, Chapter 145, Section 2, as amended) is amended to read:

"21-1-26.1. ADDITIONAL DUTIES.--In addition to the duties imposed upon the higher education department in Chapter 21 NMSA 1978, the department shall perform the same planning and budgeting functions for the university of New Mexico hospital as it performs for other post-secondary educational institutions."

Chapter 23 Section 8 Laws 2015

SECTION 8. Section 21-24-3 NMSA 1978 (being Laws 1971, Chapter 304, Section 3, as amended) is amended to read:

"21-24-3. EXCEPTIONS.--The Out-of-State Proprietary School Act does not apply to:

A. courses recognized by the public education department for the purpose of complying with the Compulsory School Attendance Law;

B. courses offered by an employer solely for the employer's employees;

C. courses offered by a nonprofit religious institution relating primarily to religion; and

D. courses offered under a participation agreement pursuant to the provisions of Subsection C of Section 4 of the Interstate Distance Education Act."

Senate Bill 446, aa, w/cc

Approved April 2, 2015

LAWS 2015, CHAPTER 24

AN ACT

RELATING TO FIREFIGHTERS; INCREASING DISTRIBUTIONS INTO THE FIREFIGHTERS' SURVIVORS FUND.

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

Chapter 24 Section 1 Laws 2015

SECTION 1. 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. Annually on or before the last day of July, 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 commission, as the case may be, 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 commission, 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 two hundred fifty thousand dollars (\$250,000), 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 two hundred fifty thousand dollars (\$250,000)."

Chapter 24 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 519

Approved April 2, 2015

LAWS 2015, CHAPTER 25

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 25 Section 1 Laws 2015

SECTION 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of 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 less than one million dollars (\$1,000,000) do not require specific authorization and need not be identified in this act. Authorization is given to the New Mexico finance authority to make loans to the following qualified entities on terms and conditions established by the authority:

1. the Albuquerque-Bernalillo county water utility authority in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

2. the city of Albuquerque in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, rail spur, water, wastewater, water rights, solid waste and special assessment district projects;

3. the Alma d'Arte charter school in Dona Ana county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

4. the Alto Lakes water and sanitation district in Lincoln county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

5. the Angel Fire public improvement district in Colfax county for building, equipment, infrastructure, road, land acquisition, water, wastewater, water rights and solid waste projects;

6. the village of Angel Fire in Colfax county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights, solid waste and special assessment district projects;

7. the Anthony charter school in Dona Ana county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

8. the Ask academy in Sandoval county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

9. the city of Aztec in San Juan county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

10. the town of Bernalillo in Sandoval county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights, solid waste and special assessment district projects;

11. the city of Bloomfield in San Juan county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

12. the Canones mutual domestic water consumers and mutual sewage works association in Rio Arriba county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

13. the Carrizozo municipal school district in Lincoln county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

14. the Cimarron municipal school district in Colfax county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

15. the Cottonwood Classical preparatory school in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

16. the Cottonwood Valley charter school in Socorro county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

17. De Baca county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

18. the Dexter consolidated school district in Chaves county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

19. the East Mountain High charter school in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

20. the East Tarrant soil and water conservation district in Tarrant county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

21. the eastern plains council of governments in Curry, De Baca, Guadalupe, Harding, Quay, Roosevelt and Union counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

22. the eastern Sandoval county arroyo flood control authority in Sandoval county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

23. the town of Edgewood in Santa Fe county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

24. the Estancia Moriarty Willard gas cooperative in Torrance county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

25. the Estancia Valley solid waste authority in Torrance county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

26. the city of Eunice in Lea county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

27. the village of Folsom in Union county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

28. the Grants campus of New Mexico state university in Cibola county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

29. Guadalupe county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

30. the Hagerman municipal school district in Chaves county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

31. Harding county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

32. the Hatch Valley public school district in Dona Ana county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

33. La Academia de Esperanza charter school in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

34. the Las Vegas city public school district in San Miguel county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

35. the city of Las Vegas in San Miguel county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

36. Los Alamos county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights, solid waste, public improvement district and special assessment district projects;

37. Los Puentes charter school in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

38. the higher education department for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects for Luna community college in San Miguel county;

39. the Maxwell municipal school district in Colfax county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

40. the Media Arts Collaborative charter school in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

41. the Mescalero Apache housing authority in Otero county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

42. the mid-region council of governments in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, rail spur, water, wastewater, water rights and solid waste projects;

43. the village of Milan in Cibola county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

44. the Monte del Sol charter school in Santa Fe county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

45. the Montessori of the Rio Grande charter school in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

46. Mora county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights, solid waste, public improvement district and special assessment district projects;

47. the Mora independent school district in Mora county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

48. the village of Mosquero in Harding county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

49. the Nambe Pueblo development corporation in Santa Fe county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

50. the Pueblo of Nambe in Santa Fe county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

51. the board of regents of New Mexico highlands university in San Miguel county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

52. the board of regents of New Mexico institute of mining and technology in Socorro county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects for the research park corporation;

53. the board of regents of the New Mexico school for the blind and visually impaired in Otero county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

54. the board of regents of New Mexico state university in Dona Ana county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects for the Arrowhead center;

55. the board of regents of New Mexico state university in Dona Ana county for building, equipment, infrastructure, debt refinancing, road, water, wastewater, water rights and solid waste projects;

56. the New Mexico state university foundation in Dona Ana county for building, equipment, infrastructure, debt refinancing, road, water, wastewater, water rights and solid waste projects;

57. the Nor-Lea hospital district in Lea county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

58. the north central regional transit district in Santa Fe, Rio Arriba, Los Alamos and Taos counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

59. the north central regional transit district in Santa Fe, Rio Arriba and Taos counties for railroad infrastructure;

60. the northwest New Mexico council of governments in McKinley, Cibola and San Juan counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

61. the northwest New Mexico regional solid waste authority in Cibola and McKinley counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

62. Ohkay Owingeh in Rio Arriba county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

63. the village of Pecos in San Miguel county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

64. the Pueblo of Pojoaque in Santa Fe county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

65. the city of Portales in Roosevelt county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

66. the Public Academy for performing arts in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

67. the Questa independent school district in Taos county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

68. the city of Raton in Colfax county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

69. the Robert F. Kennedy charter school in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

70. the village of Roy in Harding county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

71. the higher education department for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects for San Juan college in San Juan county;

72. San Miguel county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

73. the higher education department for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects for Santa Fe community college in Santa Fe county;

74. the Santa Rosa consolidated school district in Guadalupe and San Miguel counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

75. the Sierra Vista hospital in Sierra county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

76. the south central council of governments in Dona Ana, Sierra and Socorro counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

77. the south central regional transit district in Dona Ana, Sierra and Socorro counties for building, equipment, infrastructure, debt refinancing, road, land

acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

78. the southeastern New Mexico economic development district in Lincoln, Chaves, Lea, Eddy and Otero counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

79. the South Valley academy in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

80. the southern Sandoval county arroyo flood control authority in Sandoval county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

81. the southwest council of governments in Catron, Grant, Hidalgo and Luna counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

82. the Southwest Secondary learning center in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

83. the Springer municipal school district in Colfax and Union counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

84. the village of Taos Ski Valley in Taos county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

85. the Tsay corporation in Rio Arriba county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

86. the 21st Century public academy in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

87. the board of regents of the university of New Mexico in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects for the University of New Mexico medical group, incorporated;

88. the Vaughn municipal school district in Guadalupe and Torrance counties for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, wastewater, water rights and solid waste projects;

89. the Wagon Mound public school district in Mora county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

90. the board of regents of Western New Mexico university in Grant county for building, equipment, infrastructure, debt refinancing, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects;

91. the Anthony water and sanitation district in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

92. the city of Las Cruces in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, solid waste and special assessment district projects;

93. the north central New Mexico economic development district in Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, solid waste and special assessment district projects; and

94. the Estancia valley classical academy in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, facilities acquisition, water, wastewater, water rights and solid waste projects.

Chapter 25 Section 2 Laws 2015

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 2018 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 25 Section 3 Laws 2015

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

Approved April 3, 2015

LAWS 2015, CHAPTER 26

AN ACT

RELATING TO FISHING; AMENDING A SECTION OF CHAPTER 17 NMSA 1978 TO ADD TILAPIA AND STRIPED BASS TO GAME FISH.

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

Chapter 26 Section 1 Laws 2015

SECTION 1. Section 17-2-3 NMSA 1978 (being Laws 1967, Chapter 8, Section 1, as amended) is amended to read:

"17-2-3. PROTECTED WILDLIFE SPECIES AND GAME FISH DEFINED.--

A. The following mammals are game mammals:

(1) all of the family Tayassuidae (javelina);

(2) within the family Bovidae:

(a) all of the genus Bison (American bison) except where raised in captivity for domestic or commercial meat production;

(b) all of the genus Capra (ibex) except for the domestic species of goats;

(c) all of the genus Ovis (bighorn sheep) except for the domestic species of sheep;

(d) all of the genus Ammotragus (aoudad);

(e) all of the genus Tragelaphus (kudu); and

(f) all of the genus Oryx (oryx);

(3) all of the family Antilocapridae (American pronghorn);

(4) all of the family Cervidae (elk and deer);

(5) all of the family Ochotonidae (pikas);

- (6) all of the genus *Sciurus* (squirrels);
- (7) all of the genus *Tamiasciurus* (red squirrels);
- (8) all of the genus *Marmota* (marmots) of the family *Sciuridae*;
- (9) all of the family *Ursidae* (bear); and
- (10) all of the species *concolor* (cougar) of the genus *Felis* and family *Felidae*.

B. The following birds are game birds:

- (1) all of the family *Anatidae* (waterfowl);
- (2) all of the family *Tetraonidae* (grouse and ptarmigans);
- (3) all of the family *Phasianidae* (quail, partridges and pheasants);
- (4) all of the family *Meleagridae* (wild turkeys) except for the domestic strains of turkeys;
- (5) all of the family *Perdidae* (francolins);
- (6) all of the family *Gruidae* (cranes);
- (7) all of the family *Rallidae* (rails, coots and gallinules);
- (8) all of the family *Charadriidae* (plovers, turnstones and surfbirds);
- (9) all of the family *Scolopacidae* (shorebirds, snipe, sandpipers and curlews);
- (10) all of the family *Recurvirostridae* (avocets and stilts);
- (11) all of the family *Phalaropodidae* (phalaropes); and
- (12) all of the family *Columbidae* (wild pigeons and doves) except for the domestic strains of pigeons.

C. The following fish are game fish:

- (1) all of the family *Salmonidae* (trout);
- (2) all of the family *Esocidae* (pike);

- (3) all of the family Ictaluridae (catfish);
- (4) all introduced species of the family Serranidae (sea bass and white bass);
- (5) all of the family Centrarchidae (sunfish, crappie and bass);
- (6) all of the family Percidae (walleye pike and perch);
- (7) all introduced species of the family Pomadasyidae (sargo);
- (8) all introduced species of the family Sciaenidae (corvina, bairdiella and redbfish);
- (9) all of the genus Oreochromis (tilapia); and
- (10) all of the family Moronidae (striped bass, hybrid striped bass, white bass and others)."

House Bill 201

Approved April 3, 2015

LAWS 2015, CHAPTER 27

AN ACT

RELATING TO GAME AND FISH; AMENDING A SECTION OF CHAPTER 17 NMSA 1978 TO PROVIDE A PENALTY ASSESSMENT OPTION FOR A MINOR VIOLATION OF HUNTING AND FISHING INFRACTIONS.

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

Chapter 27 Section 1 Laws 2015

SECTION 1. Section 17-2-10.1 NMSA 1978 (being Laws 1995, Chapter 177, Section 1) is amended to read:

"17-2-10.1. GAME AND FISH PENALTY ASSESSMENT MISDEMEANORS--
DEFINITION--SCHEDULE OF ASSESSMENTS.--

A. As used in Chapter 17 NMSA 1978, "penalty assessment misdemeanor" means a violation of any of the following listed sections of the NMSA 1978 for which the listed penalty assessment is established:

SECTION VIOLATED	PENALTY ASSESSMENT
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Fishing, hunting or trapping without the proper stamp or validation as required by law or adopted by state game	
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17-2-7	\$ 50.00
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17-3-17	\$ 75.00
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Hunting small game without	
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17-3-1	\$100.00
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Manner and method rule	
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infraction contrary to	
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adoption by state game	
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17-2-7	\$125.00.
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B. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor.

C. With the penalty assessment collected for each penalty assessment misdemeanor pursuant to this section, there shall be assessed and collected the cost of the appropriate license and validation that the violator failed to produce. Upon presentation of proof of payment of the penalty assessment, the director of the department of game and fish shall issue the appropriate license and validation."

Approved April 3, 2015

LAWS 2015, CHAPTER 28

AN ACT

RELATING TO KINSHIP GUARDIANSHIP; REMOVING THE REQUIREMENT TO STATE MARITAL STATUS OF THE CHILD; UPDATING THE PROCESS OF OBTAINING A HEARING DATE; CHANGING THE STANDARD OF PROOF IN INDIAN CHILD WELFARE ACT CASES TO COMPORT WITH THE FEDERAL LAW.

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

Chapter 28 Section 1 Laws 2015

SECTION 1. Section 40-10B-5 NMSA 1978 (being Laws 2001, Chapter 167, Section 5) 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; or

(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.

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 children, youth and families department consents to the relief requested in the petition;

(11) whether the child is subject to provisions of the federal Indian Child Welfare Act of 1978 and, if so:

(a) the tribal affiliations of the child's parents; and

(b) the specific actions taken by the petitioner to notify the parents' tribes and the results of the contacts, including the names, addresses, titles and telephone numbers of the persons contacted, and copies of correspondence with the tribe; and

(12) other facts in support of the guardianship sought."

Chapter 28 Section 2 Laws 2015

SECTION 2. Section 40-10B-6 NMSA 1978 (being Laws 2001, Chapter 167, Section 6) 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 children, youth and families department if there is any pending matter relating to the child pursuant to the provisions of Chapter 32A, Article 4 NMSA 1978;

(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 as defined in the federal Indian Child Welfare Act of 1978, the appropriate Indian tribe and any "Indian custodian", together with a notice of pendency of the guardianship proceedings, pursuant to the provisions of the federal Indian Child Welfare Act of 1978.

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 28 Section 3 Laws 2015

SECTION 3. Section 40-10B-8 NMSA 1978 (being Laws 2001, Chapter 167, Section 8) 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."

House Bill 277

Approved April 3, 2015

LAWS 2015, CHAPTER 29

AN ACT

RELATING TO HIGHER EDUCATION; REQUIRING A COMMON COURSE NAMING AND NUMBERING SYSTEM BY AUGUST 1, 2017; UPDATING REFERENCES TO THE HIGHER EDUCATION DEPARTMENT.

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

Chapter 29 Section 1 Laws 2015

SECTION 1. Section 21-1B-2 NMSA 1978 (being Laws 1995, Chapter 224, Section 2, as amended) is amended to read:

"21-1B-2. DEFINITIONS.--As used in the Post-Secondary Education Articulation Act:

A. "articulation" means the transfer of course credit from one institution to another;

B. "department" means the higher education department;

C. "discipline module" means lower-division courses, including the general education core, that meet the lower-division college-level requirements for a specific degree;

D. "general education core" means the grouping of lower division general education courses of at least thirty-five hours that are established by the department for transfer and that are accepted by all institutions for transfer purposes;

E. "institution" means an accredited, public post-secondary educational institution operating in the state; and

F. "module" or "transfer module" means a standardized list of courses established by the department for which credit is accepted for transfer from one institution to another."

Chapter 29 Section 2 Laws 2015

SECTION 2. Section 21-1B-3 NMSA 1978 (being Laws 1995, Chapter 224, Section 3, as amended) is amended to read:

"21-1B-3. ARTICULATION PLAN--DEVELOPMENT--IMPLEMENTATION--ESTABLISHMENT OF TRANSFER MODULE.--

A. The department shall establish and maintain a comprehensive statewide plan to provide for the articulation of educational programs and facilitate the transfer of students between institutions.

B. In establishing a statewide articulation plan, the department shall:

(1) by August 1, 2017, establish a common course naming and numbering system for courses identified as substantially equivalent lower-division courses; provided that the department shall establish an interim mechanism of a statewide equivalency table that uses a universal taxonomy to identify substantially equivalent courses until the common system is in place;

(2) establish a process to identify courses as substantially equivalent. The process shall:

(a) include a procedure for each course whereby faculty members from each segment teaching the academic discipline will reach mutual agreement on the material to be taught and the competencies to be gained;

(b) ensure that the content of each course is comparable across institutions offering that course;

(c) ensure that substantially all the content agreed to among the institutions as the content to be covered by a course is in fact covered in that course and that students successfully completing the course will achieve like competencies with respect to the content covered; and

(d) ensure that the content requirements for each course will be sufficient to prepare students for upper-division coursework in that field; and

(3) define, publish and maintain modules of lower-division courses accepted for transfer at all institutions and meeting requirements for lower-division requirements established for associate and baccalaureate degree-granting programs.

C. The department shall ensure that institutions develop transfer modules that include approximately sixty-four hours of lower-division college-level credit.

D. Transfer modules shall include a common general education core component of not less than thirty-five semester hours. This general education core shall include a comprehensive array of lower-division college-level courses designed to demonstrate skills in communication, mathematics, science, social and behavioral science, humanities, fine arts or comparable areas of study coordinated for the purpose of providing a foundation for a liberal education for all programs normally leading to a baccalaureate degree. The general education core shall transfer as a block and count as required lower-division coursework toward a degree, and any course in the core shall be transferable and shall count as credit hours toward fulfilling an institution's general education core requirements.

E. Any course in the general education core may be offered for dual credit to secondary school students and, upon successful completion, the course shall be transferable to any institution and shall count as fulfilling a required lower-division course.

F. A discipline module shall consist of an agreed-upon number of hours and courses, including the general education core, of approximately sixty-four hours applicable to the discipline and any course within the discipline module is transferable and shall count toward fulfilling degree requirements at a four-year institution."

House Bill 282

Approved April 3, 2015

LAWS 2015, CHAPTER 30

AN ACT

RELATING TO TAXATION; ENABLING THE TAXATION AND REVENUE DEPARTMENT TO PROVIDE CERTAIN INFORMATION TO THE NEW MEXICO FINANCE AUTHORITY.

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

Chapter 30 Section 1 Laws 2015

SECTION 1. Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10) is amended to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AGENCIES.--An employee of the department may reveal to:

A. a committee of the legislature for a valid legislative purpose, return information concerning any tax or fee imposed pursuant to the Cigarette Tax Act;

B. the attorney general, return information acquired pursuant to the Cigarette Tax Act for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

C. the commissioner of public lands, return information for use in auditing that pertains to rentals, royalties, fees and other payments due the state under land sale, land lease or other land use contracts;

D. the secretary of human services or the secretary's delegate, under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

E. the department of information technology, by electronic media, a database updated quarterly that contains the names, addresses, county of address and taxpayer identification numbers of New Mexico personal income tax filers, but only for the purpose of producing the random jury list for the selection of petit or grand jurors for the state courts pursuant to Section 38-5-3 NMSA 1978;

F. the state courts, the random jury lists produced by the department of information technology under Subsection E of this section;

G. the director of the New Mexico department of agriculture or the director's authorized representative, upon request of the director or representative, the names and addresses of all gasoline or special fuel distributors, wholesalers and retailers;

H. the public regulation commission, return information with respect to the Corporate Income and Franchise Tax Act required to enable the commission to carry out its duties;

I. the state racing commission, return information with respect to the state, municipal and county gross receipts taxes paid by racetracks;

J. the gaming control board, tax returns of license applicants and their affiliates as provided in Subsection E of Section 60-2E-14 NMSA 1978;

K. the director of the workers' compensation administration or to the director's representatives authorized for this purpose, return information to facilitate the identification of taxpayers that are delinquent or noncompliant in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA 1978;

L. the secretary of workforce solutions or the secretary's delegate, return information for use in enforcement of unemployment insurance collections pursuant to the terms of a written reciprocal agreement entered into by the department with the secretary of workforce solutions for exchange of information; and

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."

Chapter 30 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 475

Approved April 3, 2015

LAWS 2015, CHAPTER 31

AN ACT

RELATING TO PUBLIC ASSISTANCE; ENACTING A NEW SECTION OF THE PUBLIC ASSISTANCE ACT TO REQUIRE THE HUMAN SERVICES DEPARTMENT TO COVER NEW MEXICO RESIDENTS WHO ARE FORMER FOSTER-CARE

RECIPIENTS UNDER TWENTY-SIX YEARS OF AGE, REGARDLESS OF THE STATE WHERE FOSTER CARE WAS RECEIVED.

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

Chapter 31 Section 1 Laws 2015

SECTION 1. A new section of the Public Assistance Act is enacted to read:

"FORMER FOSTER-CARE RECIPIENTS--MEDICAL ASSISTANCE COVERAGE UNTIL AGE TWENTY-SIX.--The department shall cover individuals who are residents of New Mexico and who are former recipients of foster care, regardless of the state where the foster care was received, until those individuals reach the age of twenty-six years."

House Bill 505

Approved April 3, 2015

LAWS 2015, CHAPTER 32

AN ACT

RELATING TO PROCUREMENT; EXEMPTING FROM THE PROCUREMENT CODE SERVICES OF ADVERTISING SALES REPRESENTATIVES FOR NEW MEXICO MAGAZINE.

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

Chapter 32 Section 1 Laws 2015

SECTION 1. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended by Laws 2013, Chapter 40, Section 1 and by Laws 2013, Chapter 70, Section 6 and also by Laws 2013, Chapter 71, 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;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. purchases not exceeding ten thousand dollars (\$10,000) consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for legal subscription and research services and litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement of printing services for materials produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Z. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act;

AA. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

BB. procurement, by either the department of health or Grant county or both, of tangible personal property, services or construction that are exempt from the Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

CC. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act;

DD. the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock;

EE. contracts entered into by the crime victims reparation commission to distribute federal grants to assist victims of crime, including grants from the federal Victims of Crime Act of 1984 and the federal Violence Against Women Act of 1994;

FF. procurement by or through the children, youth and families department of pre-kindergarten services purchased pursuant to the Pre-Kindergarten Act;

GG. procurement of services of commissioned advertising sales representatives for New Mexico magazine; and

HH. procurements exempt from the Procurement Code as otherwise provided by law."

Senate Bill 100, aa

Approved April 3, 2015

LAWS 2015, CHAPTER 33

AN ACT

RELATING TO HEALTH; LIMITING LIABILITY FOR A GOOD SAMARITAN WHO COMES TO THE AID OF A PERSON IN NEED OF DEFIBRILLATION; AMENDING SECTIONS OF THE CARDIAC ARREST RESPONSE ACT.

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

Chapter 33 Section 1 Laws 2015

SECTION 1. Section 24-10C-3 NMSA 1978 (being Laws 1999, Chapter 94, Section 3, as amended) is amended to read:

"24-10C-3. DEFINITIONS.--As used in the Cardiac Arrest Response Act:

A. "automated external defibrillator" means a medical device heart monitor and defibrillator that:

(1) has received approval of its premarket modification filed pursuant to 21 U.S.C. 360(k), from the United States food and drug administration;

(2) is capable of recognizing cardiac arrest that will respond to defibrillation, ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining whether defibrillation should be performed; and

(3) upon determining that defibrillation should be performed, automatically charges and is capable of delivering an electrical impulse to an individual's heart;

B. "automated external defibrillator program" means a program of trained targeted responders registered with the department;

C. "defibrillation" means the administration of a controlled electrical charge to the heart to restore a viable cardiac rhythm;

D. "department" means the department of health;

E. "good Samaritan" means a person who lacks automated external defibrillator training but who has access to an automated external defibrillator and provides emergency automated external defibrillator services to a person in need of defibrillation, provided that the good Samaritan:

(1) acts without willful, wanton or reckless behavior that is the cause of injury or death; and

(2) acts without compensation;

F. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or any legal or commercial entity; and

G. "trained targeted responder" means a person trained in the use of an automated external defibrillator under emergency cardiac care guidelines."

Chapter 33 Section 2 Laws 2015

SECTION 2. Section 24-10C-4 NMSA 1978 (being Laws 1999, Chapter 94, Section 4, as amended) is amended to read:

"24-10C-4. PROTECTION OF PUBLIC SAFETY.--A person that acquires an automated external defibrillator shall ensure that:

A. a trained targeted responder is designated to oversee all aspects of the automated external defibrillator program, including training, emergency medical services coordination, protocol approval and automated external defibrillator deployment strategies, and that the trained targeted responder provides overall quality assurance and reviews each case in which the automated external defibrillator is used by the program;

B. the trained targeted responders receive appropriate training in cardiopulmonary resuscitation and in the use of an automated external defibrillator by a nationally recognized course in cardiopulmonary response and automated external defibrillator use approved by the department or other training programs authorized by the department;

C. the defibrillator is maintained and tested according to the manufacturer's guidelines;

D. any person that renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical system as soon as possible and reports any clinical use of the automated external defibrillator to the designated trained targeted responder;

E. the automated external defibrillator program is registered with the department; and

F. the local emergency medical services and local 911 agencies have been notified of the automated external defibrillator program."

Chapter 33 Section 3 Laws 2015

SECTION 3. Section 24-10C-7 NMSA 1978 (being Laws 1999, Chapter 94, Section 7, as amended) is amended to read:

"24-10C-7. LIMITED LIABILITY PROTECTIONS.--

A. The following persons who render emergency care or treatment by the use of an automated external defibrillator pursuant to the provisions of the Cardiac Arrest Response Act shall not be subject to civil liability, provided that they have acted with reasonable care and in compliance with the requirements of that act:

(1) a trained targeted responder who provides supervisory services pursuant to the Cardiac Arrest Response Act;

(2) a person that provides training in cardiopulmonary resuscitation and use of automated external defibrillation;

(3) a person that acquires, provides or makes available to the public an automated external defibrillator pursuant to the Cardiac Arrest Response Act;

(4) the owner, manager or operator of the property or facility where the automated external defibrillator is located;

(5) a person that authorizes, directs or supervises the installation or placement of an automated external defibrillator; and

(6) the trained targeted responder.

B. A good Samaritan who renders emergency care or treatment by the use of an automated external defibrillator pursuant to the provisions of the Cardiac Arrest Response Act shall not be subject to civil liability; provided that the good Samaritan has acted without willful, wanton or reckless behavior that is the cause of injury or death and in compliance with the requirements of that act."

SPAC/Senate Bill 189, aa

Approved April 3, 2015

LAWS 2015, CHAPTER 34

AN ACT

RELATING TO PUBLIC WATERS; AMENDING A SECTION OF CHAPTER 17 NMSA 1978; DEFINING THE SCOPE OF EASEMENT CREATED BY CONSTITUTIONAL PROVISIONS REGARDING OWNERSHIP OF PUBLIC WATERS, BENEFICIAL USE OF PUBLIC WATERS AND THE RIGHT TO ACQUIRE, OWN AND PROTECT PRIVATE PROPERTY; PROVIDING FOR LAWFUL RECREATIONAL ACCESS TO PUBLIC WATERS.

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

Chapter 34 Section 1 Laws 2015

SECTION 1. Section 17-4-6 NMSA 1978 (being Laws 1912, Chapter 85, Section 10, as amended) is amended to read:

"17-4-6. HUNTING AND FISHING ON PRIVATE PROPERTY--POSTING--
PENALTY.--

A. Whenever the owner or lessee desires to protect or propagate game birds, animals or fish within the owner's or lessee's enclosure or pasture, the owner or lessee shall publish notices in English and Spanish warning all persons not to hunt or fish within the enclosure or pasture. The notices shall be posted in at least six conspicuous places on the premises and published for three consecutive weeks in a newspaper of general circulation in the county where the premises are situated. In the event a public road enters or crosses the enclosure or pasture, an additional notice shall be posted conspicuously within three hundred yards of the point where each public road enters the posted property.

B. After the publication and posting, it is a misdemeanor for any person to enter the premises for the purpose of hunting or fishing or to kill or injure any bird, animal or fish within the enclosure or pasture without permission of the owner or lessee.

C. No person engaged in hunting, fishing, trapping, camping, hiking, sightseeing, the operation of watercraft or any other recreational use shall walk or wade onto private property through non-navigable public water or access public water via private property unless the private property owner or lessee or person in control of private lands has expressly consented in writing.

D. Nothing in this act shall be interpreted to affect or influence whether a water is a navigable water or a water of the United States for purposes of the federal Clean Water Act of 1977, 33 U.S.C. 1251 et seq."

Chapter 34 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SJC/SCONC/Senate Bill 226, aa

Approved April 3, 2015

LAWS 2015, CHAPTER 35

AN ACT

RELATING TO GAME AND FISH; AMENDING A SECTION OF CHAPTER 17 NMSA 1978 TO PROVIDE FOR THE STATE GAME COMMISSION TO ADOPT RULES REGARDING OUTDOOR RECREATION AND WILDLIFE VOLUNTEERS.

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

Chapter 35 Section 1 Laws 2015

SECTION 1. Section 17-1-14 NMSA 1978 (being Laws 1921, Chapter 35, Section 7, as amended) is amended to read:

"17-1-14. GENERAL POWERS AND DUTIES OF STATE GAME COMMISSION--GAME PROTECTION FUND--LIABILITY SUSPENSE ACCOUNT.--

A. The state game commission shall have general control over the collection and disbursement of all money collected or received under the state laws for the protection and propagation of game and fish, which money shall be paid over to the state treasurer to the credit of the game protection fund, unless otherwise provided by law, and the fund, including all earned income, shall not be transferred to another fund. Prior to depositing money into the game protection fund, the department of game and fish shall ensure that an amount adequate to cover the cost of refunds allowed by the provisions of Chapter 17 NMSA 1978 is held in a liability suspense account. All refunds shall be made from the liability suspense account. Money not needed to cover the cost of refunds shall be deposited in the game protection fund at the end of each month. Chapter 17 NMSA 1978 shall be guaranty to the person who pays for hunting and fishing licenses and permits that the money in that fund shall not be used for any purpose other than as provided in Chapter 17 NMSA 1978.

B. The state game commission shall have authority to:

(1) establish and, through the director of the department of game and fish, to operate fish hatcheries for the purpose of stocking public waters of the state and to furnish fish fry and fingerlings to stock private waters, receipts from such sources to go into the game protection fund;

(2) declare closed seasons in any specified locality and on any species of game or fish threatened with undue depletion from any cause;

(3) establish game refuges for the purpose of providing safe sanctuaries in which game may breed and replenish adjacent hunting ranges, it being the purpose of this provision to establish small refuges rather than large preserves or to close large areas to hunting;

(4) purchase lands for game refuges where suitable public lands do not exist, to purchase lands for fish hatcheries and to purchase lands to be maintained perpetually as public hunting grounds, particularly lands suitable for waterfowl hunting, all such lands to be paid for from the game protection fund;

(5) receive by gift or bequest, in the name and on behalf of the state, lands suitable for game refuges, hunting grounds, fish hatcheries or for any other purpose necessary to carry out the provisions of Chapter 17 NMSA 1978;

(6) apply for and accept any state, federal or private funds, grants or donations from any source for game and fish programs and projects;

(7) designate certain areas as rest grounds for migratory birds, in which hunting shall be forbidden at all times or at such times as the state game commission shall provide, it being the purpose of this provision not to interfere unduly with the hunting of waterfowl but to provide havens in which they can rest and feed without molestation;

(8) close any public stream or lake or portion thereof to fishing when such action is necessary to protect a recently stocked water, to protect spawning waters or to prevent undue depletion of the fish;

(9) propagate, capture, purchase, transport or sell any species of game or fish needed for restocking any lands or streams of the state;

(10) after reasonable notice and hearing, suspend or revoke any license or permit issued pursuant to the provisions of Chapter 17 NMSA 1978 and withhold license privileges from any person procuring a license through misrepresentation, violating any provisions of Chapter 17 NMSA 1978 or hunting without a proper license;

(11) adopt rules establishing procedures that provide reasonable notice and a hearing before the state game commission for the suspension, revocation or withholding of license privileges for a definite period of time for a person charged with violating the provisions of Chapter 17 NMSA 1978, subject to such judicial review as may be provided by law;

(12) conduct studies of programs for the management of endangered and nongame species of wildlife;

(13) establish licenses, permits and certificates not otherwise provided for in Section 17-3-13 NMSA 1978 and charge and collect just and reasonable fees for them; provided the fees shall not exceed the costs of administration associated with the licenses, permits or certificates;

(14) permit, regulate or prohibit the commercial taking or capturing of native, free-ranging amphibians or reptiles not specifically protected by law, except for rattlesnake roundups, collection of fish bait and lizard races;

(15) adopt rules to control, eradicate or prevent the spread of a contagious disease, pest or parasite, including chronic wasting disease, to or among game animals. The rules shall include provisions for:

(a) notification to the department of game and fish of the diagnosis or suspected presence of a contagious disease;

(b) examination by the state veterinarian or the state veterinarian's designee of suspected infected game animals;

(c) quarantine, treatment or destruction of an infected game animal;

(d) disinfection and isolation of a licensed private park where an infected game animal has been; and

(e) indemnification and destruction of a protected game animal;

(16) as necessary, designate areas of the state in which bear-proof garbage containers are required on public and private lands to reduce potential human-bear interactions;

(17) pursuant to appropriation by the legislature, expend money from the game protection fund and the habitat management fund for the improvement, maintenance, development and operation of property for fish and wildlife habitat management; and

(18) adopt rules to recruit, train and accept the services of volunteers for education and outreach activities, hunter and angler services and wildlife conservation activities administered by the department of game and fish; provided that a volunteer:

(a) shall comply with all policies and procedures of the director of the department of game and fish; and

(b) shall not be deemed to be a state employee and shall not be subject to the provisions of law relating to state employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation and state employee benefits.

C. The director of the department of game and fish shall exercise all the powers and duties conferred upon the state game and fish warden by all previous statutes now in force not in conflict with Chapter 17 NMSA 1978.

D. The state game commission shall have authority to prohibit all hunting in periods of extreme forest fire danger, at such times and places as may be necessary to reduce the danger of destructive forest fires.

E. The hunting, pursuing, capturing, killing or wounding of any game animals, birds or fish in or upon any game refuge, rest ground or closed water or closed area or during any closed season established or proclaimed by the state game commission in accordance with the authority conferred in Chapter 17 NMSA 1978 constitutes a misdemeanor and shall be punishable as prescribed in Chapter 17 NMSA 1978."

Senate Bill 231

Approved April 3, 2015

LAWS 2015, CHAPTER 36

AN ACT

RELATING TO FINANCE; MAKING A DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE TOBACCO SETTLEMENT PROGRAM FUND.

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

Chapter 36 Section 1 Laws 2015

SECTION 1. Section 6-4-9 NMSA 1978 (being Laws 1999, Chapter 207, Section 1, as amended) is amended to read:

"6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--DISTRIBUTION.--

A. The "tobacco settlement permanent fund" is created in the state treasury. The fund shall consist of money distributed to the state pursuant to the master settlement agreement entered into between tobacco product manufacturers and various states, including New Mexico, and executed November 23, 1998 or any money released to the state from a qualified escrow fund or otherwise paid to the state as authorized by Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the master settlement agreement or as otherwise authorized by law. Money in the fund shall be invested by the state investment officer in accordance with the limitations in Article 12, Section 7 of the constitution of New Mexico. Income from investment of the fund shall be credited to the fund. Money in the fund shall not be expended for any purpose, except as provided in this section.

B. In fiscal year 2007 and in each fiscal year thereafter, an annual distribution shall be made from the tobacco settlement permanent fund to the tobacco settlement program fund of an amount equal to fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year until that amount is less than an amount equal to four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. In the event that the actual amount distributed to the tobacco settlement program fund in a fiscal year is insufficient to meet appropriations from that fund for that fiscal year, the secretary of finance and administration shall proportionately reduce each appropriation accordingly.

C. In addition to the distribution made pursuant to Subsection B of this section, in fiscal years 2009 through 2013 and 2016, the remaining fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund.

D. In addition to the distribution made pursuant to Subsections B and E of this section, in fiscal year 2014, twenty-five percent of the total amount of money distributed pursuant to the master settlement agreement to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the lottery tuition fund.

E. In addition to the distribution made pursuant to Subsections B and D of this section, in fiscal year 2014, twenty-five percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund for appropriation for direct services provided by early childhood care and education programs administered by the children, youth and families department.

F. The tobacco settlement permanent fund shall be considered a reserve fund of the state and, as a reserve 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 and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, in order to avoid an unconstitutional deficit, the legislature may authorize a transfer from the tobacco settlement permanent fund to the general fund but only in an amount necessary to meet general fund appropriations."

Chapter 36 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 270

Approved April 3, 2015

LAWS 2015, CHAPTER 37

AN ACT

RELATING TO ADMINISTRATIVE HEARINGS; REQUIRING ADMINISTRATIVE HEARINGS HELD BY THE OFFICE OF THE STATE ENGINEER TO BE HELD IN THE COUNTY IN WHICH THE WATER RIGHT AT ISSUE IS LOCATED.

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

Chapter 37 Section 1 Laws 2015

SECTION 1. Section 72-2-16 NMSA 1978 (being Laws 1965, Chapter 285, Section 4, as amended) is amended to read:

"72-2-16. HEARINGS REQUIRED BEFORE APPEAL.--The state engineer may order that a hearing be held before the state engineer enters a decision, acts or refuses to act. If, without holding a hearing, the state engineer enters a decision, acts or refuses to act, any person aggrieved by the decision, act or refusal to act is entitled to a hearing if a request for a hearing is made in writing within thirty days after receipt by certified mail of notice of the decision, act or refusal to act. Hearings shall be held before the state engineer or the state engineer's appointed examiner. Hearings shall be held in the county in which the water right at issue is adjudicated, licensed or permitted, unless the parties and the state engineer stipulate another site for the hearing. A record shall be made of all hearings. An appeal shall not be taken to the district court until the state engineer has held a hearing and entered a decision in the hearing."

Senate Bill 276

Approved April 3, 2015

LAWS 2015, CHAPTER 38

AN ACT

RELATING TO TAXATION; REMOVING A RESTRICTION IN THE DEFINITION OF "CONTROL" IN A GROSS RECEIPTS TAX DEDUCTION FOR ADMINISTRATIVE AND ACCOUNTING SERVICES.

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

Chapter 38 Section 1 Laws 2015

SECTION 1. Section 7-9-69 NMSA 1978 (being Laws 1969, Chapter 144, Section 61, as amended) is amended to read:

"7-9-69. DEDUCTION--GROSS RECEIPTS TAX--ADMINISTRATIVE AND ACCOUNTING SERVICES.--

A. Receipts of a business entity for administrative, managerial, accounting and customer services performed by it for an affiliate upon a nonprofit or cost basis and receipts of a business entity from an affiliate for the joint use or sharing of office machines and facilities upon a nonprofit or cost basis may be deducted from gross receipts.

B. For the purposes of this section:

(1) "affiliate" means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with another business entity;

(2) "business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership or real estate investment trust, but does not mean an individual or a joint venture; and

(3) "control" means equity ownership in a business entity that:

(a) represents at least fifty percent of the total voting power of that business entity; or

(b) has a value equal to at least fifty percent of the total equity of that business entity."

Chapter 38 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Approved April 3, 2015

LAWS 2015, CHAPTER 39

AN ACT

RELATING TO TAXATION; DESIGNATING AUTHORITY TO MAKE CERTAIN CHANGES IN THE PROPERTY TAX SCHEDULE; EXPANDING THE GROUNDS FOR WHICH A PROPERTY OWNER MAY REQUEST A CHANGE TO THE PROPERTY TAX SCHEDULE.

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

Chapter 39 Section 1 Laws 2015

SECTION 1. Section 7-38-77 NMSA 1978 (being Laws 1973, Chapter 258, Section 117, as amended) is amended to read:

"7-38-77. AUTHORITY TO MAKE CHANGES IN PROPERTY TAX SCHEDULE AFTER ITS DELIVERY TO THE COUNTY TREASURER.--

A. After delivery of the property tax schedule to the county treasurer, the amounts shown on the schedule as taxes due and other information on the schedule shall not be changed except:

(1) by the county treasurer to correct obvious errors in the mathematical computation of taxes;

(2) by the county treasurer to correct obvious errors by the county assessor in:

(a) the name or address of the property owner or other persons shown on the schedule;

(b) the description of the property subject to property taxation, even if the correction results in a change in the amount shown on the schedule as taxes due;

(c) the data entry of the value, classification, allocation of value and limitation on increases in value pursuant to Sections 7-36-21.2 and 7-36-21.3 NMSA 1978 of property subject to property taxation by the county assessor; or

(d) the application of eligible, documented and qualified exemptions;

(3) by the county treasurer to cancel multiple valuations for property taxation purposes of the same property in a single tax year, but only if:

(a) a taxpayer presents tax receipts showing the payment of taxes by the taxpayer for any year in which multiple valuations for property taxation purposes are claimed to have been made;

(b) a taxpayer presents evidence of ownership of the property, satisfactory to the treasurer, as of January 1 of the year in which multiple valuations for property taxation purposes are claimed to have been made; and

(c) there is no dispute concerning ownership of the property called to the attention of the treasurer, and the treasurer has no actual knowledge of any dispute concerning ownership of the property;

(4) by the county treasurer, to correct the tax schedule so that it no longer contains personal property that is deemed to be unlocatable, unidentifiable or uncollectable, after thorough research with verification by the county assessor or appraiser, with notification to the department and the county clerk;

(5) as a result of a protest, including a claim for refund, in accordance with the Property Tax Code, of values, classification, allocations of values determined for property taxation purposes or a denial of a claim for an exemption;

(6) by the department or the order of a court as a result of any proceeding by the department to collect delinquent property taxes under the Property Tax Code;

(7) by a court order entered in an action commenced by a property owner under Section 7-38-78 NMSA 1978;

(8) by the department as authorized under Section 7-38-79 NMSA 1978;

(9) by the department of finance and administration as authorized under Section 7-38-77.1 NMSA 1978; or

(10) as specifically otherwise authorized in the Property Tax Code.

B. As used in this section, "obvious errors" does not include the method used to determine the valuation for, or a difference of opinion in the value of, the property subject to property taxation."

Chapter 39 Section 2 Laws 2015

SECTION 2. Section 7-38-78 NMSA 1978 (being Laws 1973, Chapter 258, Section 118, as amended) is amended to read:

"7-38-78. ACTION BY PROPERTY OWNER IN DISTRICT COURT TO CHANGE PROPERTY TAX SCHEDULE.--

A. After the delivery of the property tax schedule to the county treasurer for a particular tax year, a property owner may bring an action in the district court requesting a change in the property tax schedule in connection with any property listed on the schedule for property taxation in which the owner claims an interest. The action shall be brought in the district court for the county for which the property tax schedule in question was prepared.

B. Actions brought under this section may not directly challenge the value, classification, allocations of value determined for property taxation purposes, denial of any exemption claimed or method used to determine the valuation for the property subject to property taxation. Actions brought under this section shall be founded on one or more of the following grounds:

(1) errors in the name or address of the property owner or other person shown on the schedule;

(2) errors in the description of the property for property taxation purposes, even if the correction results in a change in the amount shown on the schedule as taxes due;

(3) errors in the computation of taxes;

(4) errors in the property tax schedule relating to the payment or nonpayment of taxes;

(5) multiple valuations for property taxation purposes for a single tax year of the same property on the property tax schedule; or

(6) errors in the rate of tax set for any governmental unit in which the owner's property is located.

C. Actions brought under this section shall name the county treasurer as defendant. An action brought under Paragraph (6) of Subsection B of this section, shall also name the secretary of finance and administration as a defendant.

Chapter 39 Section 3 Laws 2015

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2016.

House Bill 67, aa

Approved April 6, 2015

LAWS 2015, CHAPTER 40

AN ACT

RELATING TO LAND GRANTS; ALLOWING LAND GRANT-MERCED FUNDS TO BE DEPOSITED IN A CREDIT UNION; ALLOWING EXPENDITURE OF FUNDS BY THE BOARD OF TRUSTEES OF A LAND GRANT-MERCED UPON APPROVAL OF A MAJORITY OF THE BOARD AND SUPPORTED BY AN INVOICE OR RECEIPT.

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

Chapter 40 Section 1 Laws 2015

SECTION 1. Section 49-1-8 NMSA 1978 (being Laws 1907, Chapter 42, Section 8, as amended) is amended to read:

"49-1-8. ORGANIZATION OF BOARD--BONDS--VACANCIES.--

A. All members of the newly elected board of trustees shall meet no later than seven days after the votes are canvassed and organize themselves by the election of a president, secretary and treasurer. The treasurer shall perform such duties as may be required by the board and shall furnish to the board a good and sufficient surety bond in a sum as set forth in this section, to be conditioned as are the bonds of other public officials handling public money. It is the duty of the treasurer to deposit all the money coming to the treasurer in a bank or credit union organized and doing business in New Mexico.

B. In the event of the death or resignation of the treasurer, the board shall fill the vacancy by appointing one of the members of the board as treasurer, who shall, before entering into the performance of duties as treasurer, execute and furnish to the board a good and sufficient surety bond, similar to the bond entered into by the predecessor treasurer.

C. The amount of the bond required of the treasurer and the treasurer's successor shall at all times be for a sum of at least double the amount received by and deposited in the bank or credit union by the treasurer.

D. In the event that the board of trustees delegates any other of its members to collect money due the land grant-merced, that person shall be bonded in the same manner as is provided in this section for the bonding of the treasurer.

E. Those authorized to collect money shall give receipts for the money collected, which receipts shall be in the form prescribed by the board of trustees in the bylaws as an official receipt."

SECTION 2. Section 49-1-14 NMSA 1978 (being Laws 1907, Chapter 42, Section 14, as amended) is amended to read:

Chapter 40 Section 2 Laws 2015

"49-1-14. SALARIES OF TRUSTEES--RECORDS--EXPENDITURES.--

A. The board of trustees may fix in the land grant-merced bylaws and pay to its members a salary not to exceed two hundred dollars (\$200) to any member in one month. The salary as fixed shall be in full as compensation for the duties performed by the board or the individual members within the exterior boundaries of the land grant-merced and for attendance at regularly scheduled meetings. The secretary of the board may be allowed a salary not to exceed two hundred twenty-five dollars (\$225) in one month.

B. Board members may be authorized per diem and mileage pursuant to the Per Diem and Mileage Act.

C. The board of trustees and the treasurer shall keep permanent and legible records capable of audit, and no money or funds shall be paid by the board of trustees or by any person authorized to expend money unless the expenditure is approved by a majority of the board of trustees and is in the form of a written check or in such a form that the date, amount and payee of the transaction are automatically recorded; and the payment is supported by an invoice or receipt."

Chapter 40 Section 3 Laws 2015

SECTION 3. Section 49-4-9 NMSA 1978 (being Laws 2007, Chapter 145, Section 8) is amended to read:

"49-4-9. ORGANIZATION OF BOARD--BONDS--VACANCIES.--

A. All members of the newly elected board of trustees shall meet no later than seven days after the votes are canvassed and organize themselves by the election of a president, secretary and treasurer. The treasurer shall perform such duties as may be required by the board and shall furnish to the board a good and sufficient surety bond in a sum as set forth in this section, to be conditioned as are the bonds of other public officials handling public money. It is the duty of the treasurer to deposit all the money of the land grant-merced in a bank or credit union organized and doing business in New Mexico.

B. In the event of the death or resignation of the treasurer, the board shall fill the vacancy by appointing one of the members of the board as treasurer, who shall, before entering into the performance of the duties as treasurer, execute and furnish to the board a good and sufficient surety bond, similar to the bond entered into by the predecessor.

C. The amount of the bond required of the treasurer and the treasurer's successor shall at all times be for a sum of at least double the amount received by and deposited in the bank or credit union by the treasurer.

D. In the event the board of trustees delegates any other of its members to collect money due the land grant-merced, that person shall be bonded in the same manner as is provided in this section for the bonding of the treasurer.

E. Those authorized to collect money shall give receipts for the money collected, which receipts shall be in the form prescribed by the board of trustees in the bylaws as an official receipt."

Chapter 40 Section 4 Laws 2015

SECTION 4. Section 49-4-15 NMSA 1978 (being Laws 2007, Chapter 145, Section 14) is amended to read:

"49-4-15. SALARIES OF TRUSTEES--RECORDS--EXPENDITURES.--

A. The board of trustees may fix in the land grant-merced bylaws and pay to its members a salary not to exceed two hundred dollars (\$200) to any member in one month. The salary as fixed shall be in full as compensation for the duties performed by the board of trustees or the individual members within the exterior boundaries of the land grant-merced and for attendance at regularly scheduled meetings. The secretary of the board of trustees may be allowed a salary not to exceed two hundred twenty-five dollars (\$225) in one month.

B. Board of trustees members may be authorized per diem and mileage pursuant to the Per Diem and Mileage Act.

C. The board of trustees and the treasurer shall keep permanent and legible records capable of audit, and no money or funds shall be paid by the board of trustees or by any person authorized to expend money unless the expenditure is approved by a majority of the board of trustees and is in the form of a written check or in such a form that the date, amount and payee of the transaction are automatically recorded; and the payment is supported by an invoice or receipt."

Chapter 40 Section 5 Laws 2015

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 83

Approved April 6, 2015

LAWS 2015, CHAPTER 41

AN ACT

RELATING TO NURSING EDUCATION; ALLOWING ANY REGISTERED NURSE WHO IS OR WILL BE A NURSE EDUCATOR TO USE THE NURSE EDUCATORS FUND TO OBTAIN A HIGHER DEGREE.

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

Chapter 41 Section 1 Laws 2015

SECTION 1. Section 21-1-27.7 NMSA 1978 (being Laws 2005, Chapter 136, Section 1) is amended to read:

"21-1-27.7. FUND CREATED.--

A. There is created in the state treasury the "nurse educators fund". The state treasurer shall deposit in the fund all amounts appropriated or credited to the fund. The fund shall be administered by the higher education department, which shall charge not more than a five percent administrative fee. Earnings from investment of the fund shall accrue to the credit of the fund. Any balance in the fund at the end of any fiscal year shall remain in the fund for appropriation by the legislature.

B. The purpose of the fund is to enable the attainment of bachelor of science, master of science, doctor of nursing practice and doctor of philosophy degrees in nursing programs by nursing educators employed by a public post-secondary educational institution and registered nurses seeking employment as nursing educators in a public post-secondary educational institution.

C. The higher education department shall develop rules for continuing employment or pay-back provisions for current and future nursing educators who use the fund."

House Bill 121, aa

Approved April 6, 2015

LAWS 2015, CHAPTER 42

AN ACT

RELATING TO CRIMINAL LAW; MAKING UNAUTHORIZED DISTRIBUTION OF SENSITIVE IMAGES A CRIME; PROVIDING PENALTIES.

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

Chapter 42 Section 1 Laws 2015

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

UNAUTHORIZED DISTRIBUTION OF SENSITIVE IMAGES--PENALTIES.--

A. Unauthorized distribution of sensitive images consists of distributing, publishing or otherwise making available, by an electronic communications device or other means, sensitive images of a person, with or without information identifying that person, without that person's consent:

(1) with the intent to:

(a) harass, humiliate or intimidate that person;

(b) incite another to harass, humiliate or intimidate that person;

(c) cause that person to reasonably fear for that person's own or family members' safety;

(d) cause that person to suffer unwanted physical contact or injury; or

(e) cause that person to suffer substantial emotional distress; and

(2) where the conduct is such that it would cause a reasonable person to suffer substantial emotional distress.

B. For the purpose of this section:

(1) "electronic communications device" means a computer, an internet web site or page, a video recorder, a digital camera, a fax machine, a

telephone, a cellular telephone, a pager or any other device that can produce an electronically generated image, message or signal;

(2) "information service" means a service offering the capability of generating, acquiring, storing, transforming, processing, publishing, retrieving, utilizing or making available information;

(3) "interactive computer service" means any information service, system or access software provider that provides or enables computer access by multiple users;

(4) "intimate act" has the same meaning as "sexual act", as that term is defined in Section 30-9-2 NMSA 1978;

(5) "sensitive images" means images, photographs, videos or other likenesses depicting or simulating an intimate act or depicting any portion of a person's genitals, or of a woman's breast below the top of the areola, that is either uncovered or visible through less-than-fully opaque clothing, which images may reasonably be considered to be private, intimate or inappropriate for distribution or publication without that person's consent; and

(6) "telecommunications provider" has the same meaning as set forth in Section 63-7-23 NMSA 1978.

C. Whoever commits unauthorized distribution of sensitive images is guilty of a misdemeanor. Upon a second or subsequent conviction, the offender is guilty of a fourth degree felony.

D. Nothing in this section shall be construed to impose liability on:

(1) an interactive computer service, an information service or a telecommunications provider for content provided by another person; or

(2) a person who reproduces, distributes, exhibits, publishes, transmits or otherwise disseminates content in furtherance of a legitimate public purpose, including the compilation or dissemination of news by newspapers and licensed broadcasters."

Chapter 42 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Approved April 6, 2015

LAWS 2015, CHAPTER 43

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING THE ALTERATION OF AIRBAGS; PROHIBITING THE SALE AND INSTALLATION OF COUNTERFEIT OR NONFUNCTIONAL AIRBAGS; REQUIRING AIRBAGS IN RENTAL VEHICLES OR VEHICLES FOR HIRE; PROHIBITING MISREPRESENTATION WITH RESPECT TO AIRBAGS; PROVIDING PENALTIES.

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

Chapter 43 Section 1 Laws 2015

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

"AIRBAG VIOLATIONS.--

A. It is unlawful for a person to knowingly:

- (1) fail to install an airbag in a motor vehicle after representing to another person that the person will install an airbag in the motor vehicle;
- (2) install or reinstall a counterfeit or nonfunctional airbag in a motor vehicle;
- (3) import, manufacture or sell or offer for sale a counterfeit or nonfunctional airbag to be installed in a motor vehicle;
- (4) sell any device, install or reinstall in any vehicle any device or take any action that causes the vehicle's diagnostic system to inaccurately indicate that the vehicle is equipped with a functional airbag when a counterfeit airbag, nonfunctional airbag or no airbag is installed;
- (5) represent to another that a counterfeit or nonfunctional airbag is an original equipment manufacturer part;
- (6) intentionally alter an airbag in a manner that causes the airbag to become a counterfeit or nonfunctional airbag or otherwise defective;
- (7) sell, lease or rent a motor vehicle that at the time of the sale, lease or rental has a counterfeit or nonfunctional airbag installed;

(8) rent or offer for hire a motor vehicle that is not equipped with airbags required to be in the motor vehicle by the applicable federal safety regulations for the make, model and year of the vehicle; or

(9) assist another in violating the provisions of this subsection with the intent that the crime be committed.

B. Whoever violates this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. A violation of the provisions of this section that results in great bodily harm or death is a fourth degree felony, and the offender shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. This section shall not apply to airbags, counterfeit airbags or nonfunctional airbags in a motor vehicle operated solely on a closed course or track.

E. As used in this section:

(1) "airbag" means a motor vehicle inflatable occupant restraint system or any component thereof that:

(a) operates in the event of a crash; and

(b) is designed in accordance with federal motor vehicle safety standards for the specific make, model and year of the motor vehicle in which it is or will be installed;

(2) "counterfeit airbag" means a replacement airbag or any component thereof displaying a mark identical or similar to the genuine mark of a motor vehicle manufacturer without authorization of the motor vehicle manufacturer;

(3) "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 any member or organ of the body;

(4) "knowingly" or "known" means having actual knowledge of the violation; and

(5) "nonfunctional airbag" means a replacement airbag or any component thereof that:

(a) was previously deployed or damaged;

(b) has a fault that was detected by the vehicle diagnostic system after the installation procedure was completed; or

(c) includes any part or object, such as a repaired airbag cover, that is installed in a motor vehicle in order to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed."

Chapter 43 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 328

Approved April 6, 2015

LAWS 2015, CHAPTER 44

AN ACT

RELATING TO PROPERTY TAXATION; CLARIFYING THAT THE TAXATION AND REVENUE DEPARTMENT'S AUTHORIZATION OF A COUNTY TREASURER TO ACCEPT PAYMENTS RELATED TO DELINQUENT PROPERTY TAXES INCLUDES PAYMENTS PURSUANT TO AN INSTALLMENT AGREEMENT.

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

SECTION 1. Section 7-38-62 NMSA 1978 (being Laws 1973, Chapter 258, Section 102, as amended) is amended to read:

Chapter 44 Section 1 Laws 2015

"7-38-62. AUTHORITY OF DEPARTMENT TO COLLECT DELINQUENT PROPERTY TAXES AFTER RECEIPT OF TAX DELINQUENCY LIST--ALLOWING AN AUTHORIZED COUNTY TREASURER TO ACT AS AN AGENT OF THE DEPARTMENT--USE OF PENALTIES, INTEREST AND COSTS.--

A. After the receipt of the tax delinquency list, the department has the responsibility and exclusive authority to take all action necessary to collect delinquent taxes shown on the list. This authority includes bringing collection actions in the district courts based upon the personal liability of the property owner for taxes as well as the actions authorized in the Property Tax Code for proceeding against the property subject to the tax for collection of delinquent taxes.

B. Payment of delinquent taxes listed and any penalty, interest or costs due in connection with those taxes shall be made to the department if occurring after

the receipt by the department of the tax delinquency list; however, the department may authorize county treasurers to act as its agents in accepting payments of taxes, penalties, interest or costs due to the department, including payments made pursuant to an installment agreement authorized by Section 7-38-68 NMSA 1978.

C. Penalties, interest and costs due received by the department pursuant to Subsection B of this section shall be retained by the department for use, subject to appropriation by the legislature, in the administration of the Property Tax Code."

Chapter 44 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 104

Approved April 6, 2015

LAWS 2015, CHAPTER 45

AN ACT

RELATING TO HIGHWAY TRANSPORTATION; CHANGING SPEED LIMITS ON COUNTY ROADS; AMENDING A SECTION OF THE NMSA 1978.

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

Chapter 45 Section 1 Laws 2015

SECTION 1. Section 66-7-301 NMSA 1978 (being Laws 1978, Chapter 35, Section 405, as amended) is amended to read:

"66-7-301. SPEED REGULATION.--

A. No person shall drive a vehicle on a highway at a speed greater than:

(1) fifteen miles per hour on all highways when passing a school while children are going to or leaving school and when the school zone is properly posted;

(2) thirty miles per hour in a business or residence district;

(3) fifty-five miles per hour on a county road, as defined in Section 66-7-304 NMSA 1978, without a posted speed limit;

(4) seventy-five miles per hour; and

(5) the posted speed limit in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the department of transportation; provided that the posted speed limit shall be determined by an engineering study performed by the department of transportation.

B. In every event, speed shall be so controlled by the driver as may be necessary:

(1) to avoid colliding with a person, vehicle or other conveyance on or entering the highway;

(2) to comply with legal requirements as may be established by the department of transportation or the New Mexico state police division of the department of public safety and the duty of all persons to use due care; and

(3) to protect workers in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the department of transportation.

C. The speed limits set forth in Subsection A of this section may be altered as authorized in Section 66-7-303 NMSA 1978."

Chapter 45 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2016.

Senate Bill 125

Approved April 6, 2015

LAWS 2015, CHAPTER 46

AN ACT

RELATING TO PUBLIC SCHOOL TRANSPORTATION; REQUIRING SCHOOL DISTRICT LIENS ON CONTRACTOR-OWNED SCHOOL BUSES UNDER CONTRACT TO THE SCHOOL DISTRICT.

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

Chapter 46 Section 1 Laws 2015

SECTION 1. Section 22-8-27 NMSA 1978 (being Laws 1967, Chapter 16, Section 77, as amended) is amended to read:

"22-8-27. TRANSPORTATION EQUIPMENT.--

A. The department shall establish a systematic program for the purchase of necessary school bus transportation equipment.

B. In establishing a system for the replacement of school-district-owned buses, the department shall provide for the replacement of school buses on a twelve-year cycle. School districts requiring additional buses to accommodate growth in the school district or to meet other special needs may petition the department for additional buses. Under exceptional circumstances, school districts may also petition the department for permission to replace buses prior to the completion of a twelve-year cycle or to use buses in excess of twelve years contingent upon satisfactory annual safety inspections.

C. In establishing a system for the use of contractor-owned buses by school districts or state-chartered charter schools, the department shall establish a schedule for the payment of rental fees for the use of contractor-owned buses. The department shall establish procedures to ensure the systematic replacement of buses on a twelve-year replacement cycle. School districts requiring additional buses to accommodate growth in the school district or to meet other special needs may petition the department for additional buses. Under exceptional circumstances, school districts may also petition the department for permission to replace buses prior to the completion of a twelve-year cycle or to use buses in excess of twelve years contingent upon satisfactory annual safety inspections.

D. The school district shall file a lien on every contractor-owned school bus under the contract, which lien shall have priority second only to a lien securing a purchase-money obligation. The school district shall perfect its lien on each contractor-owned school bus by filing the lien with the motor vehicle division of the taxation and revenue department. The lien shall be recorded on the title of the school bus. A school bus contractor shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the department. A school bus lien shall be collected and enforced as provided in Chapter 55, Article 9 NMSA 1978. The school district shall release its lien on a school bus:

(1) when the department authorizes a replacement of the school bus; or

(2) when the contractor has reimbursed the school district the amount calculated pursuant to Subsection E of this section if the school bus service contract is terminated or not renewed and the contractor owes the school district as provided in that subsection.

E. No school district shall pay rental fees for any one bus for a period in excess of five years. In the event a school bus service contract is terminated or not renewed by either party, the department shall calculate the remaining number of years that a bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The school district shall deduct an amount equal to that value from any remaining amount due on the contract, or if no balance remains on the contract, the contractor shall reimburse the school district an amount equal to the value calculated.

F. If the school district fails to take action to collect money owed to it when a school bus contract is terminated or not renewed, the department may deduct the amount from the school district's transportation distribution."

Chapter 46 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 129

Approved April 6, 2015

LAWS 2015, CHAPTER 47

AN ACT

RELATING TO NURSING EDUCATION; ALLOWING ANY REGISTERED NURSE WHO IS OR WILL BE A NURSE EDUCATOR TO USE THE NURSE EDUCATORS FUND TO OBTAIN A HIGHER DEGREE.

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

Chapter 47 Section 1 Laws 2015

SECTION 1. Section 21-1-27.7 NMSA 1978 (being Laws 2005, Chapter 136, Section 1) is amended to read:

"21-1-27.7. FUND CREATED.--

A. There is created in the state treasury the "nurse educators fund". The state treasurer shall deposit in the fund all amounts appropriated or credited to the fund. The fund shall be administered by the higher education department, which shall charge not more than a five percent administrative fee. Earnings from investment of the fund shall accrue to the credit of the fund. Any balance in the fund at the end of any fiscal year shall remain in the fund for appropriation by the legislature.

B. The purpose of the fund is to enable the attainment of bachelor of science, master of science, doctor of nursing practice and doctor of philosophy degrees in nursing programs by nursing educators employed by a public post-secondary educational institution and registered nurses seeking employment as nursing educators in a public post-secondary educational institution.

C. The higher education department shall develop rules for continuing employment or pay-back provisions for current and future nursing educators who use the fund."

Senate Bill 341, aa

Approved April 6, 2015

LAWS 2015, CHAPTER 48

AN ACT

RELATING TO MOTOR VEHICLES; EXTENDING THE OVERWEIGHT ZONE AT PORTS OF ENTRY ON THE BORDER WITH MEXICO TO TWELVE MILES; EXPANDING WHEN THE STATE TRANSPORTATION COMMISSION OR LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS.

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

Chapter 48 Section 1 Laws 2015

SECTION 1. Section 66-7-415 NMSA 1978 (being Laws 1955, Chapter 37, Section 12, as amended) is amended to read:

"66-7-415. WHEN THE STATE TRANSPORTATION COMMISSION OR LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS.--

A. Local authorities, with respect to streets under their jurisdiction, may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or may impose limitations as to size or weight, on designated streets in areas that are primarily residential or that pass by educational or medical facilities or on

streets that are not designed or constructed for heavy weight vehicles, which prohibitions and limitations shall be designated by appropriate signs placed on the street.

B. The local authority enacting an ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of the street affected, and the ordinance or resolution shall not be effective until signs are erected and maintained and notice given in writing to the nearest officer or employee of the motor transportation division of the department of public safety authorized to issue special permits.

C. The state transportation commission shall likewise have authority, as granted to local authorities in Subsections A and B of this section, to determine by resolution and to impose restrictions as to the size and weight of vehicles operated upon any highways under the jurisdiction of the commission, and such restrictions shall be effective upon the passage of a resolution and when signs giving notice thereof are erected upon the highway or portion of any highway affected by the resolution. The commission shall deliver a copy of all restrictions adopted by it to the motor transportation division of the department of public safety."

Chapter 48 Section 2 Laws 2015

SECTION 2. 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 public safety 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 public safety 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.

(1) The department of public safety 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 department of public safety authority and inspection at all times.

(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 public safety 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 public safety 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 public safety 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 public safety 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 public safety 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 public safety 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 public safety 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 public regulation commission.

M. The department of public safety 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 public safety 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."

Senate Bill 52, aa

Approved April 6, 2015

LAWS 2015, CHAPTER 49

AN ACT

RELATING TO HIGHWAYS; PROVIDING FOR A MULTIPLE-TRIP PERMIT FOR CERTAIN SPECIALIZED VEHICLES WITH EXCESSIVE GROSS WEIGHT.

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

Chapter 49 Section 1 Laws 2015

SECTION 1. A new section of Chapter 66, Article 7 NMSA 1978 is enacted to read:

"MULTIPLE-TRIP PERMIT FOR SPECIALIZED HAUL VEHICLES.--A special multiple-trip permit may be issued for a single vehicle with a load in excess of the weight allowed in Section 66-7-410 NMSA 1978 if:

A. the vehicle has an overall length of not more than forty feet and contains a group of four to seven axles having a distance in feet between the first and last axle of at least twenty feet but not greater than thirty-six feet;

B. the weight imposed upon the highway through any one axle of the vehicle does not exceed that allowed in Section 66-7-409 NMSA 1978;

C. the weight imposed upon the highway through a tandem axle of the vehicle does not exceed thirty-four thousand pounds. For the purpose of this subsection, "tandem axle" means two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than forty inches and not more than ninety-six inches apart, extending across the full width of the vehicle;

D. the total gross weight imposed upon the highway on a group of two or more consecutive axles of the vehicle shall not exceed the weight computed using and listed in the following formula and table, but in no case greater than eighty thousand pounds:

(1) $W = 500(LN/(N-1) + 12N + 36)$, where:

W = maximum overall gross weight on the group;

L = distance in feet between the extremes of any group of two or more consecutive axles measured longitudinally to the nearest foot; and

N = number of axles in the group under consideration; and

(2)

L (feet)	W (pounds)			
	4 axles	5 axles	6 axles	7 axles
20	55,500	60,500	66,000	
21	56,000	61,000	66,500	
22	56,500	61,500	67,000	
23	57,500	62,500	68,000	
24	58,000	63,000	68,500	74,000
25	58,500	63,500	69,000	74,500

26	59,500	64,000	69,500	75,000
27	60,000	65,000	70,000	75,500
28	60,500	65,500	71,000	76,500
29	61,500	66,000	71,500	77,000
30	62,000	66,500	72,000	77,500
31	62,500	67,500	72,500	78,000
32	63,500	68,000	73,000	78,500
33	64,000	68,500	74,000	79,000
34	64,500	69,000	74,500	80,000
35	65,500	70,000	75,000	80,000
36	66,000	70,500	75,500	80,000;

and

E. other requirements are met as established by rule of the secretary of public safety, including the payment of a reasonable permit fee."

Chapter 49 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2016.

Senate Bill 622, aa

Approved April 6, 2015

LAWS 2015, CHAPTER 50

AN ACT

RELATING TO SERVICES FOR SENIORS; PROVIDING FOR AN OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTIONS DIRECTED TO PROVIDE SUPPLEMENTAL FUNDING TO ENHANCE OR EXPAND SENIOR SERVICES

THROUGHOUT THE STATE; PROVIDING FOR DISTRIBUTION OF TAX REFUND CONTRIBUTIONS TO THE AGING AND LONG-TERM SERVICES DEPARTMENT FOR DISTRIBUTION STATEWIDE THROUGH THE AREA AGENCIES ON AGING.

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

Chapter 50 Section 1 Laws 2015

SECTION 1. A new section of the Income Tax Act is enacted to read:

"FINDING--OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTION-- SENIOR SERVICES.--

A. The legislature finds that it is in the public interest to provide additional money to enhance or expand vital services to New Mexico's elderly population. This section provides a means by which individuals may donate all or a portion of their income tax refund, through a voluntary check-off designation, to provide supplemental funding through the non-metro area agency on aging to senior service providers throughout the state. It is the intent of the legislature that this program of income tax refund check-off is supplemental to any other funding and is in no way intended to take the place of the funding that would otherwise be appropriated for this purpose.

B. Except as otherwise provided in Subsection D of this section, an individual whose state income tax liability after application of allowable credits and tax rebates in a year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate a portion of the income tax refund due to the individual to be paid to the aging and long-term services department for distribution statewide through the area agencies on aging for the provision of supplemental senior services throughout the state, including senior services provided through the north central New Mexico economic development district as the non-metro area agency on aging, the city of Albuquerque/Bernalillo county area agency on aging, the Indian area agency on aging and the Navajo area agency on aging. In the case of a joint return, both individuals must make the designation.

C. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Supplemental Senior Services – Check

[] if you wish to contribute a part or

all of your tax refund to provide

supplemental funding to enhance or

expand senior services throughout the state.

Enter here \$ _____ the amount of your contribution."

D. 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.

E. The department shall distribute one hundred percent of the tax refund contributions pursuant to this section to the aging and long-term services department for distribution statewide through the area agencies on aging. The agencies on aging shall cooperatively establish a grant program based on need that is available to all senior service providers in the state that meet the requirements of the program. The agencies shall seek input from senior service providers in developing the grant program."

Chapter 50 Section 2 Laws 2015

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2015.

House Bill 39, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 51

AN ACT

RELATING TO CHILDREN; ENACTING A NEW SECTION OF THE PUBLIC SCHOOL CODE TO PROHIBIT SCHOOL PERSONNEL FROM COMPELLING STUDENTS TO USE PSYCHOTROPIC MEDICATIONS; AMENDING A SECTION OF THE CHILDREN'S CODE TO PROVIDE THAT A PARENT'S, GUARDIAN'S OR CUSTODIAN'S REFUSAL TO CONSENT TO ADMINISTRATION OF A PSYCHOTROPIC MEDICATION TO A CHILD IS NOT GROUNDS PER SE FOR PROTECTIVE CUSTODY.

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

Chapter 51 Section 1 Laws 2015

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

"PSYCHOTROPIC MEDICATION--PROHIBITION ON COMPULSION.--

A. Each local school board or governing body shall develop and promulgate policies that prohibit school personnel from denying any student access to programs or services because the parent or guardian of the student has refused to place the student on psychotropic medication.

B. School personnel may share school-based observations of a student's academic, functional and behavioral performance with the student's parent or guardian and offer program options and other forms of assistance that are available to the parent or guardian and the student based on those observations. However, an employee or agent of a school district or governing body shall not compel or attempt to compel any specific actions by the parent or guardian or require that a student take a psychotropic medication.

C. School personnel shall not require a student to undergo psychological screening unless the parent or guardian of that student gives prior written consent before each instance of psychological screening.

D. Nothing in this act shall be construed to create a prohibition against a teacher or other school personnel from consulting or sharing a classroom-based observation with a parent or guardian regarding:

- (1) a student's academic and functional performance;
- (2) a student's behavior in the classroom or school; or
- (3) the need for evaluation for special education or related services.

E. As used in this section:

(1) "psychotropic medication" means a drug that shall not be dispensed or administered without a prescription, whose primary indication for use has been approved by the federal food and drug administration for the treatment of mental disorders and that is listed as a psychotherapeutic agent in drug facts and comparisons or in the American hospital formulary service; and

(2) "school personnel" means school personnel that the department has licensed."

Chapter 51 Section 2 Laws 2015

SECTION 2. Section 32A-4-6 NMSA 1978 (being Laws 1993, Chapter 77, Section 100, as amended) is amended to read:

"32A-4-6. TAKING INTO CUSTODY--PENALTY.--

A. A child may be held or taken into custody:

(1) by a law enforcement officer when the officer has evidence giving rise to reasonable grounds to believe that the child is abused or neglected and that there is an immediate threat to the child's safety; provided that the law enforcement officer contacts the department to enable the department to conduct an on-site safety assessment to determine whether it is appropriate to take the child into immediate custody, except that a child may be taken into custody by a law enforcement officer without a protective services assessment being conducted if:

(a) the child's parent, guardian or custodian has attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;

(b) the child's parent, guardian or custodian has attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;

(c) the child has been abandoned;

(d) the child is in need of emergency medical care;

(e) the department is not available to conduct a safety assessment in a timely manner; or

(f) the child is in imminent risk of abuse; or

(2) by medical personnel when there are reasonable grounds to believe that the child has been injured as a result of abuse or neglect and that the child may be at risk of further injury if returned to the child's parent, guardian or custodian. The medical personnel shall hold the child until a law enforcement officer is available to take custody of the child pursuant to Paragraph (1) of this subsection.

B. A child shall not be taken into protective custody solely on the grounds that the child's parent, guardian or custodian refuses to consent to the administration of a psychotropic medication to the child.

C. When a child is taken into custody by law enforcement, the department is not compelled to place the child in an out-of-home placement and may release the child to the child's parent, guardian or custodian.

D. When a child is taken into custody, the department shall make reasonable efforts to determine whether the child is an Indian child.

E. If a child taken into custody is an Indian child and is alleged to be neglected or abused, the department shall give notice to the agent of the Indian child's tribe in accordance with the federal Indian Child Welfare Act of 1978.

F. Any person who intentionally interferes with protection of a child, as provided by Subsection A of this section, is guilty of a petty misdemeanor."

House Bill 53, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 52

AN ACT

RELATING TO LICENSURE; AMENDING THE ANESTHESIOLOGIST ASSISTANTS ACT TO EXPAND SUPERVISION OPPORTUNITIES FOR ANESTHESIOLOGIST ASSISTANTS.

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

Chapter 52 Section 1 Laws 2015

SECTION 1. Section 61-6-10.2 NMSA 1978 (being Laws 2001, Chapter 311, Section 2, as amended by Laws 2003, Chapter 19, Section 11 and by Laws 2003, Chapter 302, Section 1) is amended to read:

"61-6-10.2. 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 or board eligible and 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;

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 52 Section 2 Laws 2015

SECTION 2. Section 61-6-10.9 NMSA 1978 (being Laws 2001, Chapter 311, Section 9, as amended) is amended to read:

"61-6-10.9. RULES.--

A. The board may adopt and enforce 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 or regional 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, with respect to practice outside of a university in New Mexico with a medical school, that the number of anesthesiologist assistants a supervising anesthesiologist may supervise at one time, except in emergency cases, shall not exceed three anesthesiologist assistants;

(8) establishing, with respect to practice at a university in New Mexico with a medical school, that an anesthesiologist shall not supervise, except in emergency cases, more than four anesthesia providers if at least one anesthesia provider is an anesthesiologist assistant; and

(9) 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 52 Section 3 Laws 2015

SECTION 3. A new section of the Anesthesiologist Assistants Act is enacted to read:

"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, at the time the anesthesiologist assistant begins practicing there, at least three anesthesiologists who are medical doctors 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 only by an anesthesiologist who is a medical doctor and who is board-certified as an anesthesiologist by the American board of anesthesiology."

Chapter 52 Section 4 Laws 2015

SECTION 4. Section 61-6-10.2 NMSA 1978 (being Laws 2001, Chapter 311, Section 2, as amended by Section 1 of this act) is repealed and a new Section 61-6-10.2 NMSA 1978 is enacted to read:

"61-6-10.2. 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 or 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 employed or to be employed by a university in New Mexico with a medical school 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 52 Section 5 Laws 2015

SECTION 5. DELAYED REPEAL.--Section 3 of this act is repealed effective July 1, 2025.

Chapter 52 Section 6 Laws 2015

SECTION 6. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 3 of this act is July 1, 2015.

B. The effective date of the provisions of Section 4 of this act is July 1, 2025.

House Bill 54, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 53

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING AND ENACTING SECTIONS OF THE MOTOR VEHICLE CODE TO DEFINE "AUTOCYCLE" AND PROVIDE FOR EXCEPTIONS TO ENDORSEMENT AND HELMET REQUIREMENTS FOR AUTOCYCLE OPERATION.

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

Chapter 53 Section 1 Laws 2015

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

"MOTORCYCLE ENDORSEMENT NOT REQUIRED FOR AUTOCYCLE OPERATION.--Autocycles shall be registered as motorcycles and proof of financial responsibility may characterize them as motorcycles, but a driver shall not be required to have a motorcycle endorsement to operate an autocycle."

Chapter 53 Section 2 Laws 2015

SECTION 2. Section 66-1-4.1 NMSA 1978 (being Laws 1990, Chapter 120, Section 2, as amended) is amended to read:

"66-1-4.1. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "abandoned vehicle" means a vehicle or motor vehicle that has been determined by a New Mexico law enforcement agency:

(1) to have been left unattended on either public or private property for at least thirty days;

(2) not to have been reported stolen;

(3) not to have been claimed by any person asserting ownership;

and

(4) not to have been shown by normal record-checking procedures to be owned by any person;

B. "access aisle" means a space designed to allow a person with a significant mobility limitation to safely exit and enter a motor vehicle that is immediately adjacent to a designated parking space for persons with significant mobility limitation and that may be common to two such parking spaces of at least sixty inches in width or, if the parking space is designed for van accessibility, ninety-six inches in width, and clearly marked and maintained with blue striping and, after January 1, 2011, the words "NO PARKING" in capital letters, each of which shall be at least one foot high and at least two inches wide, placed at the rear of the access aisle so as to be close to where an adjacent vehicle's rear tires would be placed;

C. "actual empty weight" means the weight of a vehicle without a load;

D. "additional place of business", for dealers and auto recyclers, means locations in addition to an established place of business as defined in Section 66-1-4.5 NMSA 1978 and meeting all the requirements of an established place of business, except Paragraph (5) of Subsection C of Section 66-1-4.5 NMSA 1978, but "additional place of business" does not mean a location used solely for storage and that is not used for wrecking, dismantling, sale or resale of vehicles;

E. "alcoholic beverages" means any and all distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters or any similar alcoholic beverage, including all blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half percent alcohol but excluding medicinal bitters;

F. "authorized emergency vehicle" means any fire department vehicle, police vehicle and ambulance and any emergency vehicles of municipal departments or public utilities that are designated or authorized as emergency vehicles by the director of the New Mexico state police division of the department of public safety or local authorities;

G. "autocycle" means a three-wheeled motorcycle on which the driver and all passengers ride in a completely enclosed, tandem seating area, that is equipped with:

- (1) federal motor vehicle safety standard 571.205 glazing;
- (2) a roll cage;
- (3) safety belts for all occupants;
- (4) airbag protection;
- (5) antilock brakes;
- (6) a steering wheel; and
- (7) pedals; and

H. "auto recycler" means a person engaged in this state in an established business that includes acquiring vehicles that are required to be registered under the Motor Vehicle Code for the purpose of dismantling, wrecking, shredding, compacting, crushing or otherwise destroying vehicles for reclaimable parts or scrap material to sell."

Chapter 53 Section 3 Laws 2015

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; but 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 53 Section 4 Laws 2015

SECTION 4. Section 66-7-355 NMSA 1978 (being Laws 1978, Chapter 35, Section 459, as amended) is amended to read:

"66-7-355. RIDING ON MOTORCYCLES.--

A. A person operating a motorcycle, other than an autocycle, shall ride only upon the permanent and regular seat attached thereto, shall have the person's feet upon the footrests provided on the machine and shall not carry any other person nor shall any other person ride on the motorcycle unless it is designed to carry more than one person. If a motorcycle, other than an autocycle, is designed to carry more than one person, the passenger may ride upon the permanent and regular seat if designed for two persons or upon another seat firmly attached to the rear or side of the motorcycle. The passenger shall have the passenger's feet upon the footrests attached for passenger use.

B. Any person operating a motorcycle not having a fixed windshield of a type approved by regulation of the secretary shall wear an eye protective device, which may be a faceshield attached to a safety helmet, goggles or safety eyeglasses. All eye protective devices shall be of a type approved by regulations promulgated by the secretary."

Chapter 53 Section 5 Laws 2015

SECTION 5. Section 66-7-356 NMSA 1978 (being Laws 1978, Chapter 35, Section 460, as amended) is amended to read:

"66-7-356. MANDATORY USE OF PROTECTIVE HELMETS.--

A. No person under the age of eighteen shall operate a motorcycle unless the person is wearing a safety helmet that is securely fastened on the person's head in a normal manner as headgear and that meets the standards specified by the secretary. The secretary shall adopt rules and regulations establishing standards covering the

types of helmets and the specifications therefor and shall establish and maintain a list of approved helmets meeting the standards and specifications of the secretary. No dealer or person who leases or rents motorcycles shall lease or rent a motorcycle to a person under the age of eighteen unless the lessee or renter shows such person a valid driver's license or permit and possesses the safety equipment required of an operator who is under the age of eighteen. No person shall carry any passenger under the age of eighteen on any motorcycle unless the passenger is wearing a securely fastened safety helmet, as specified in this section, meeting the standards specified by the secretary.

B. Failure to wear a safety helmet as required in this section shall not constitute contributory negligence.

C. Autocycles are exempted from the helmet provisions of this section."

HTPWC/House Bill 65, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 54

AN ACT

RELATING TO COMMERCE; MAKING CHANGES TO THE UNIFORM COMMERCIAL CODE AS ENACTED IN NEW MEXICO TO MAKE IT UNIFORM; AMENDING SECTIONS OF THE UNIFORM FRAUDULENT TRANSFER ACT; CHANGING THE NAME OF THE UNIFORM FRAUDULENT TRANSFER ACT TO THE UNIFORM VOIDABLE TRANSACTIONS ACT.

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

Chapter 54 Section 1 Laws 2015

SECTION 1. Section 55-2A-529 NMSA 1978 (being Laws 1992, Chapter 114, Section 84) is amended to read:

"55-2A-529. LESSOR'S ACTION FOR THE RENT.--

(1) After default by the lessee under the lease contract of the type described in Section 55-2A-523(1) or 55-2A-523(3)(a) NMSA 1978 or, if agreed, after other default by the lessee, if the lessor complies with Subsection (2) of this section, the lessor may recover from the lessee as damages:

(a) for goods accepted by the lessee and not repossessed by or tendered to the lessor, and for conforming goods lost or damaged within a commercially

reasonable time after risk of loss passes to the lessee (Section 55-2A-219 NMSA 1978), (i) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (ii) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (iii) any incidental damages allowed under Section 55-2A-530 NMSA 1978, less expenses saved in consequence of the lessee's default; and

(b) for goods identified to the lease contract if the lessor is unable after reasonable effort to dispose of them at a reasonable price or the circumstances reasonably indicate that effort will be unavailing, (i) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (ii) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (iii) any incidental damages allowed under Section 55-2A-530 NMSA 1978, less expenses saved in consequence of the lessee's default.

(2) Except as provided in Subsection (3) of this section, the lessor shall hold for the lessee for the remaining lease term of the lease agreement any goods that have been identified to the lease contract and are in the lessor's control.

(3) The lessor may dispose of the goods at any time before collection of the judgment for damages obtained pursuant to Subsection (1) of this section. If the disposition is before the end of the remaining lease term of the lease agreement, the lessor's recovery against the lessee for damages is governed by Section 55-2A-527 or 55-2A-528 NMSA 1978, and the lessor will cause an appropriate credit to be provided against a judgment for damages to the extent that the amount of the judgment exceeds the recovery available pursuant to Section 55-2A-527 or 55-2A-528 NMSA 1978.

(4) Payment of the judgment for damages obtained pursuant to Subsection (1) of this section entitles the lessee to the use and possession of the goods not then disposed of for the remaining lease term of and in accordance with the lease agreement.

(5) After default by the lessee under the lease contract of the type described in Section 55-2A-523(1) or Section 55-2A-523(3)(a) NMSA 1978 or, if agreed, after other default by the lessee, a lessor who is held not entitled to rent under this section must nevertheless be awarded damages for non-acceptance under Section 55-2A-527 or 55-2A-528 NMSA 1978."

Chapter 54 Section 2 Laws 2015

SECTION 2. Section 55-3-415 NMSA 1978 (being Laws 1992, Chapter 114, Section 140) is amended to read:

"55-3-415. OBLIGATION OF INDORSER.--

(a) Subject to Subsections (b), (c), (d) and (e) of this section and to Section 55-3-419(d) NMSA 1978, if an instrument is dishonored, an indorser is obliged

to pay the amount due on the instrument (i) according to the terms of the instrument at the time it was indorsed or (ii) if the indorser indorsed an incomplete instrument, according to its terms when completed, to the extent stated in Sections 55-3-115 and 55-3-407 NMSA 1978. The obligation of the indorser is owed to a person entitled to enforce the instrument or to a subsequent indorser who paid the instrument under this section.

(b) If an indorsement states that it is made "without recourse" or otherwise disclaims liability of the indorser, the indorser is not liable under Subsection (a) of this section to pay the instrument.

(c) If notice of dishonor of an instrument is required by Section 55-3-503 NMSA 1978 and notice of dishonor complying with that section is not given to an indorser, the liability of the indorser under Subsection (a) of this section is discharged.

(d) If a draft is accepted by a bank after an indorsement is made, the liability of the indorser under Subsection (a) of this section is discharged.

(e) If an indorser of a check is liable under Subsection (a) of this section and the check is not presented for payment, or given to a depository bank for collection, within thirty days after the day the indorsement was made, the liability of the indorser under Subsection (a) of this section is discharged."

Chapter 54 Section 3 Laws 2015

SECTION 3. Section 55-4A-106 NMSA 1978 (being Laws 1992, Chapter 114, Section 202, as amended) is amended to read:

"55-4A-106. TIME PAYMENT ORDER IS RECEIVED.--

(a) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in Section 55-1-202 NMSA 1978. A receiving bank may fix a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cut-off times may apply to payment orders, cancellations or amendments, or to different categories of payment orders, cancellations or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

(b) If this article refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not

fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated, unless the contrary is stated in this article."

Chapter 54 Section 4 Laws 2015

SECTION 4. Section 55-9-331 NMSA 1978 (being Laws 2001, Chapter 139, Section 51) is amended to read:

"55-9-331. PRIORITY OF RIGHTS OF PURCHASERS OF INSTRUMENTS, DOCUMENTS AND SECURITIES UNDER OTHER ARTICLES--PRIORITY OF INTERESTS IN FINANCIAL ASSETS AND SECURITY ENTITLEMENTS UNDER CHAPTER 55, ARTICLE 8 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. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Chapter 55, Articles 3, 7 and 8 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, Article 8 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 54 Section 5 Laws 2015

SECTION 5. Section 55-9-502 NMSA 1978 (being Laws 2001, Chapter 139, Section 73, as amended) is amended to read:

"55-9-502. CONTENTS OF FINANCING STATEMENT--RECORD OF MORTGAGE AS FINANCING STATEMENT--TIME OF FILING FINANCING STATEMENT.--

(a) Subject to Subsection (b) of this section, a financing statement is sufficient only if it:

- (1) provides the name of the debtor;
- (2) provides the name of the secured party or a representative of the secured party; and
- (3) indicates the collateral covered by the financing statement.

(b) Except as otherwise provided in Subsection (b) of Section 55-9-501 NMSA 1978, to be sufficient a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy Subsection (a) of this section and also:

(1) indicate that it covers this type of collateral;

(2) indicate that it is to be filed for record in the real property records;

(3) provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage pursuant to the laws of this state if the description were contained in a record of the mortgage of the real property; and

(4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date it is filed for record, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section but:

(A) the record need not indicate that it is to be filed for record in the real property records; and

(B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom Paragraph (4) of Subsection (a) of Section 55-9-503 NMSA 1978 applies; and

(4) the record is duly recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches."

Chapter 54 Section 6 Laws 2015

SECTION 6. Section 55-9-512 NMSA 1978 (being Laws 2001, Chapter 139, Section 83) is amended to read:

"55-9-512. AMENDMENT OF FINANCING STATEMENT.--

(a) Subject to Section 55-9-509 NMSA 1978, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to Subsection (e) of this section, otherwise amend the information provided in, a financing statement by filing an amendment that:

(1) identifies, by its file number, the initial financing statement to which the amendment relates; and

(2) if the amendment relates to an initial financing statement filed for record in a county clerk's office, provides the information specified in Subsection (b) of Section 55-9-502 NMSA 1978.

(b) Except as otherwise provided in Section 55-9-515 NMSA 1978, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) An amendment is ineffective to the extent it:

(1) purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(2) purports to delete all secured parties of record and fails to provide the name of a new secured party of record."

Chapter 54 Section 7 Laws 2015

SECTION 7. Section 55-12-111 NMSA 1978 (being Laws 2005, Chapter 144, Section 111) is amended to read:

"55-12-111. TEMPORARY PROVISION--EFFECTIVENESS.--

A. A document of title issued or a bailment that arises before the effective date of this act and the rights, obligations and interests flowing from that document or

bailment are governed by any statute or other rule amended or repealed by this act as if amendment or repeal had not occurred and may be terminated, completed, consummated or enforced under that statute or other rule.

B. The provisions of Article 7 of the Uniform Commercial Code do not repeal or modify any laws prescribing the form or contents of documents of title or the services or facilities to be afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with in the Uniform Commercial Code; but the fact that such laws are violated does not affect the status of a document of title that otherwise conforms with the definition of a document of title."

Chapter 54 Section 8 Laws 2015

SECTION 8. A new section of the Uniform Commercial Code is enacted to read:

"PRESUMPTION THAT RULE OF LAW CONTINUES UNCHANGED.--The provisions of this act shall be deemed declaratory of the meaning of the Uniform Commercial Code as that code existed prior to July 1, 2015."

Chapter 54 Section 9 Laws 2015

SECTION 9. Section 56-10-14 NMSA 1978 (being Laws 1989, Chapter 382, Section 1) is amended to read:

"56-10-14. SHORT TITLE.--Sections 56-10-14 through 56-10-29 NMSA 1978 may be cited as the "Uniform Voidable Transactions Act"."

Chapter 54 Section 10 Laws 2015

SECTION 10. Section 56-10-15 NMSA 1978 (being Laws 1989, Chapter 382, Section 2) is amended to read:

"56-10-15. DEFINITIONS.--As used in the Uniform Voidable Transactions Act:

A. "affiliate" means:

(1) a person that directly or indirectly owns, controls or holds, with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person that holds the securities:

(a) as a fiduciary or agent without sole discretionary power to vote the securities; or

(b) solely to secure a debt, if the person has not in fact exercised the power to vote;

(2) a corporation, twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote, by the debtor or a person that directly or indirectly owns, controls or holds, with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person that holds the securities:

(a) as a fiduciary or agent without sole discretionary power to vote the securities; or

(b) solely to secure a debt, if the person has not in fact exercised the power to vote;

(3) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

(4) a person that operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets;

B. "asset" means property of a debtor, but the term does not include:

(1) property to the extent it is encumbered by a valid lien;

(2) property to the extent it is generally exempt under nonbankruptcy law; or

(3) an interest in property held in tenancy by the entirety to the extent it is not subject to process by a creditor holding a claim against only one tenant;

C. "claim", except when used in the phrase "claim for relief", means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured;

D. "creditor" means a person that has a claim;

E. "debt" means liability on a claim;

F. "debtor" means a person that is liable on a claim;

G. "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

H. "insider" includes:

(1) if the debtor is an individual:

debtor;

- (a) a relative of the debtor or of a general partner of the

- (b) a partnership in which the debtor is a general partner;

- (c) a general partner in a partnership described in Subparagraph (b) of this paragraph; or

- (d) a corporation of which the debtor is a director, officer or person in control;

(2) if the debtor is a corporation:

- (a) a director of the debtor;

- (b) an officer of the debtor;

- (c) a person in control of the debtor;

- (d) a partnership in which the debtor is a general partner;

- (e) a general partner in a partnership described in Subparagraph (d) of this paragraph; or

- (f) a relative of a general partner, director, officer or person in control of the debtor;

(3) if the debtor is a partnership:

- (a) a general partner in the debtor;

- (b) a relative of a general partner in, a general partner of, or a person in control of the debtor;

- (c) another partnership in which the debtor is a general partner;

- (d) a general partner in a partnership described in Subparagraph (c) of this paragraph; or

- (e) a person in control of the debtor;

debtor; and

- (4) an affiliate or an insider of an affiliate as if the affiliate were the

- (5) a managing agent of the debtor;

I. "lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien or a statutory lien;

J. "organization" means a person other than an individual;

K. "person" means an individual, an estate, a business or nonprofit entity, a public corporation, a government or governmental subdivision, agency or instrumentality or another legal entity;

L. "property" means anything that may be the subject of ownership;

M. "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;

N. "relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree;

O. "sign" means, with present intent to authenticate or adopt a record, to:

(1) execute or adopt a tangible symbol; or

(2) attach to or logically associate with the record an electronic symbol, a sound or a process;

P. "transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset and includes payment of money, release, lease, license and creation of a lien or other encumbrance; and

Q. "valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings."

Chapter 54 Section 11 Laws 2015

SECTION 11. Section 56-10-16 NMSA 1978 (being Laws 1989, Chapter 382, Section 3) is amended to read:

"56-10-16. INSOLVENCY.--

A. A debtor is insolvent if, at a fair valuation, the sum of the debtor's debts is greater than the sum of the debtor's assets.

B. A debtor that is generally not paying the debtor's debts as they become due other than as a result of a bona fide dispute is presumed to be insolvent. The presumption imposes on the party against which the presumption is directed the burden of proving that the nonexistence of insolvency is more probable than its existence.

C. Assets under this section do not include property that has been transferred, concealed or removed with intent to hinder, delay or defraud creditors or that has been transferred in a manner making the transfer voidable under the Uniform Voidable Transactions Act.

D. Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset."

Chapter 54 Section 12 Laws 2015

SECTION 12. Section 56-10-17 NMSA 1978 (being Laws 1989, Chapter 382, Section 4) is amended to read:

"56-10-17. VALUE.--

A. Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

B. For the purposes of Paragraph (2) of Subsection A of Section 56-10-18 and Section 56-10-19 NMSA 1978, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust or security agreement.

C. A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous."

Chapter 54 Section 13 Laws 2015

SECTION 13. Section 56-10-18 NMSA 1978 (being Laws 1989, Chapter 382, Section 5) is amended to read:

"56-10-18. TRANSFER OR OBLIGATION VOIDABLE AS TO PRESENT OR FUTURE CREDITOR.--

A. A transfer made or obligation incurred by a debtor is voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

(1) with actual intent to hinder, delay or defraud any creditor of the debtor; or

(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:

(a) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(b) intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.

B. In determining actual intent under Paragraph (1) of Subsection A of this section, consideration may be given, among other factors, to whether:

(1) the transfer or obligation was to an insider;

(2) the debtor retained possession or control of the property transferred after the transfer;

(3) the transfer or obligation was disclosed or concealed;

(4) before the transfer was made or obligation was incurred, the debtor has been sued or threatened with suit;

(5) the transfer was of substantially all the debtor's assets;

(6) the debtor absconded;

(7) the debtor removed or concealed assets;

(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

C. A creditor making a claim for relief under Subsection A of this section has the burden of proving the elements of the claim for relief by a preponderance of the evidence."

Chapter 54 Section 14 Laws 2015

SECTION 14. Section 56-10-19 NMSA 1978 (being Laws 1989, Chapter 382, Section 6) is amended to read:

"56-10-19. TRANSFER OR OBLIGATION VOIDABLE AS TO PRESENT CREDITOR.--

A. A transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

B. A transfer made by a debtor is voidable as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time and the insider had reasonable cause to believe that the debtor was insolvent.

C. Subject to Subsection B of Section 56-10-16 NMSA 1978, a creditor making a claim for relief under Subsection A or B of this section has the burden of proving the elements of the claim for relief by a preponderance of the evidence."

Chapter 54 Section 15 Laws 2015

SECTION 15. Section 56-10-20 NMSA 1978 (being Laws 1989, Chapter 382, Section 7) is amended to read:

"56-10-20. WHEN TRANSFER IS MADE OR OBLIGATION IS INCURRED.--For the purposes of the Uniform Voidable Transactions Act:

A. a transfer is made:

(1) with respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against which applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under the Uniform Voidable Transactions Act that is superior to the interests of the transferee;

B. if applicable law permits the transfer to be perfected as provided in Subsection A of this section and the transfer is not so perfected before the commencement of an action for relief under the Uniform Voidable Transactions Act, the transfer is deemed made immediately before the commencement of the action;

C. if applicable law does not permit the transfer to be perfected as provided in Subsection A of this section, the transfer is made when it becomes effective between the debtor and the transferee;

D. a transfer is not made until the debtor has acquired rights in the asset transferred; and

E. an obligation is incurred:

(1) if oral, when it becomes effective between the parties; or

(2) if evidenced by a record, when the record signed by the obligor is delivered to or for the benefit of the obligee."

Chapter 54 Section 16 Laws 2015

SECTION 16. Section 56-10-21 NMSA 1978 (being Laws 1989, Chapter 382, Section 8) is amended to read:

"56-10-21. REMEDIES OF CREDITOR.--

A. In an action for relief against a transfer or obligation under the Uniform Voidable Transactions Act, a creditor, subject to the limitations in Section 56-10-22 NMSA 1978, may obtain:

(1) avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;

(2) an attachment or other provisional remedy against the asset transferred or other property of the transferee if available under applicable law; and

(3) subject to applicable principles of equity and in accordance with applicable rules of civil procedure:

(a) an injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;

(b) appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or

(c) any other relief the circumstances may require.

B. If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds."

Chapter 54 Section 17 Laws 2015

SECTION 17. Section 56-10-22 NMSA 1978 (being Laws 1989, Chapter 382, Section 9) is amended to read:

"56-10-22. DEFENSES, LIABILITY AND PROTECTION OF TRANSFEREE OR OBLIGEE.--

A. A transfer or obligation is not voidable under Paragraph (1) of Subsection A of Section 56-10-18 NMSA 1978 against a person that took in good faith and for a reasonably equivalent value given the debtor or against any subsequent transferee or obligee.

B. To the extent a transfer is avoidable in an action by a creditor under Paragraph (1) of Subsection A of Section 56-10-21 NMSA 1978:

(1) except as otherwise provided in this section, the creditor may recover judgment for the value of the asset transferred, as adjusted under Subsection C of this section, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

(a) the first transferee of the asset or the person for whose benefit the transfer was made; or

(b) an immediate or mediate transferee of the first transferee, other than: 1) a good-faith transferee that took for value; or 2) an immediate or mediate good-faith transferee of a person described in Item 1) of this subparagraph; and

(2) recovery pursuant to Paragraph (1) of Subsection A or Subsection B of Section 56-10-21 NMSA 1978 of or from the asset transferred or its proceeds, by levy or otherwise, is available only against a person described in Subparagraph (a) or (b) of Paragraph (1) of this subsection.

C. If the judgment under Subsection B of this section is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

D. Notwithstanding voidability of a transfer or an obligation under the Uniform Voidable Transactions Act, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:

- (1) a lien on or a right to retain an interest in the asset transferred;
- (2) enforcement of an obligation incurred; or
- (3) a reduction in the amount of the liability on the judgment.

E. A transfer is not voidable under Paragraph (2) of Subsection A of Section 56-10-18 NMSA 1978 or under Section 56-10-19 NMSA 1978 if the transfer results from:

- (1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or
- (2) enforcement of a security interest in compliance with Chapter 55, Article 9 NMSA 1978, other than acceptance of collateral in full or partial satisfaction of the obligation it secures.

F. A transfer is not voidable under Subsection B of Section 56-10-19 NMSA 1978:

- (1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made, except to the extent the new value was secured by a valid lien;
- (2) if made in the ordinary course of business or financial affairs of the debtor and the insider; or
- (3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

G. In determining the burden of proving matters referred to in this section:

- (1) a party that seeks to invoke Subsection A, D, E or F of this section has the burden of proving the applicability of that subsection;
- (2) except as otherwise provided in Paragraphs (3) and (4) of this subsection, the creditor has the burden of proving each applicable element of Subsection B or C of this section;

(3) the transferee has the burden of proving the applicability to the transferee of Item 1) or 2) of Subparagraph (b) of Paragraph (1) of Subsection B of this section; and

(4) a party that seeks adjustment under Subsection C of this section has the burden of proving the adjustment.

H. The standard of proof required to establish matters referred to in this section is preponderance of the evidence."

Chapter 54 Section 18 Laws 2015

SECTION 18. Section 56-10-23 NMSA 1978 (being Laws 1989, Chapter 382, Section 10) is amended to read:

"56-10-23. EXTINGUISHMENT OF CAUSE OF ACTION.--A cause of action with respect to a transfer or obligation under the Uniform Voidable Transactions Act is extinguished unless action is brought:

A. under Paragraph (1) of Subsection A of Section 56-10-18 NMSA 1978 not later than four years after the transfer was made or the obligation was incurred or, if later, not later than one year after the transfer or obligation was or could reasonably have been discovered by the claimant;

B. under Paragraph (2) of Subsection A of Section 56-10-18 NMSA 1978 or Subsection A of Section 56-10-19 NMSA 1978 not later than four years after the transfer was made or the obligation was incurred; or

C. under Subsection B of Section 56-10-19 NMSA 1978 not later than one year after the transfer was made."

Chapter 54 Section 19 Laws 2015

SECTION 19. Section 56-10-24 NMSA 1978 (being Laws 1989, Chapter 382, Section 11) is recompiled as Section 56-10-26 NMSA 1978 and is amended to read:

"56-10-26. SUPPLEMENTARY PROVISIONS.--

A. Unless displaced by the provisions of the Uniform Voidable Transactions Act, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency or other validating or invalidating cause, supplement its provisions.

B. The provisions of the Uniform Voidable Transactions Act are not the exclusive law on the subject of voidable transfers and obligations.

C. The provisions of the Uniform Voidable Transactions Act operate independently of rules in organic law that govern the internal affairs of business organizations that limit distributions by those organizations to their equity owners. Compliance with those rules does not insulate such distributions from being voidable pursuant to the provisions of that act."

Chapter 54 Section 20 Laws 2015

SECTION 20. A new section of the Uniform Voidable Transactions Act, Section 56-10-24 NMSA 1978, is enacted to read:

"56-10-24. GOVERNING LAW.--

A. In this section, in determining a debtor's location, a debtor:

(1) who is an individual is located at the individual's principal residence;

(2) that is an organization and has only one place of business is located at its place of business; and

(3) that is an organization and has more than one place of business is located at its chief executive office.

B. A claim for relief in the nature of a claim for relief under the Uniform Voidable Transactions Act is governed by the local law of the jurisdiction in which the debtor is located when the transfer is made or the obligation is incurred."

Chapter 54 Section 21 Laws 2015

SECTION 21. Section 56-10-25 NMSA 1978 (being Laws 1989, Chapter 382, Section 12) is recompiled as Section 56-10-27 NMSA 1978 and is amended to read:

"56-10-27. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--The Uniform Voidable Transactions Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of the Uniform Voidable Transactions Act among states enacting it."

Chapter 54 Section 22 Laws 2015

SECTION 22. A new section of the Uniform Voidable Transactions Act, Section 56-10-25 NMSA 1978, is enacted to read:

"56-10-25. APPLICATION TO SERIES ORGANIZATION.--

A. As used in this section:

(1) "protected series" means an arrangement, however denominated, created by a series organization that, pursuant to the law under which the series organization is organized, has the characteristics set forth in Paragraph (2) of this subsection; and

(2) "series organization" means an organization that, pursuant to the law under which it is organized, has the following characteristics:

(a) the organic record of the organization provides for creation by the organization of one or more protected series, however denominated, with respect to specified property of the organization, and for records to be maintained for each protected series that identify the property of or associated with the protected series;

(b) debt incurred or existing with respect to the activities of, or property of or associated with, a particular protected series is enforceable against the property of or associated with the protected series only, and not against the property of or associated with the organization or other protected series of the organization; and

(c) debt incurred or existing with respect to the activities or property of the organization is enforceable against the property of the organization only, and not against the property of or associated with a protected series of the organization.

B. A series organization and each protected series of the organization is a separate person for purposes of the Uniform Voidable Transactions Act, even if for other purposes a protected series is not a person separate from the organization or other protected series of the organization.

C. The provisions of the Uniform Voidable Transactions Act do not authorize or prohibit the creation of a protected series or series organization."

Chapter 54 Section 23 Laws 2015

SECTION 23. A new section of the Uniform Voidable Transactions Act, Section 56-10-28 NMSA 1978, is enacted to read:

"56-10-28. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Voidable Transactions Act modifies, limits or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b)."

Chapter 54 Section 24 Laws 2015

SECTION 24. A new section of the Uniform Voidable Transactions Act, Section 56-10-29 NMSA 1978, is enacted to read:

"56-10-29. APPLICABILITY.--

A. The provisions of the Uniform Voidable Transactions Act:

(1) apply to a transfer made or obligation incurred on or after January 1, 2016; but

(2) do not apply to:

(a) a transfer made or an obligation incurred before January 1, 2016; or

(b) a right of action that has accrued before January 1, 2016.

B. A transfer made or an obligation incurred before January 1, 2016 and the rights, obligations and interests flowing from that transfer or obligation are governed by the Uniform Fraudulent Transfer Act as if the Uniform Voidable Transactions Act had not been enacted and may be terminated, completed, consummated or enforced pursuant to the Uniform Fraudulent Transfer Act.

C. For the purposes of this section, a transfer is made and an obligation is incurred at the time provided in Section 56-10-20 NMSA 1978."

Chapter 54 Section 25 Laws 2015

SECTION 25. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 8 of this act is July 1, 2015.

B. The effective date of the provisions of Sections 9 through 24 of this act is January 1, 2016.

House Bill 85, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 55

AN ACT

RELATING TO MOTOR VEHICLES; ENACTING A NEW SECTION OF CHAPTER 66, ARTICLE 3 NMSA 1978 TO PROVIDE FOR AN AUTISM AWARENESS LICENSE PLATE; MAKING AN APPROPRIATION.

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

Chapter 55 Section 1 Laws 2015

SECTION 1. A new section of Chapter 66, Article 3 NMSA 1978 is enacted to read:

"SPECIAL AUTISM AWARENESS 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 autism awareness.

B. For a fee of thirty-five dollars (\$35.00), which is in addition to the regular motor vehicle registration fees, the owner of a vehicle may apply for issuance of a special autism awareness registration plate. The owner shall apply for and pay the fee each year to retain and renew the special autism awareness registration plate.

C. Revenue from the additional fee for a special autism awareness registration plate shall be distributed as follows:

(1) ten dollars (\$10.00) of the additional 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 an autism awareness logo; and

(2) twenty-five dollars (\$25.00) of the additional fee shall be distributed to and is appropriated to the department of health for the purpose of funding autism research, outreach and education."

House Bill 103

Approved April 7, 2015

LAWS 2015, CHAPTER 56

AN ACT

RELATING TO LOBBYIST REGULATION; REQUIRING CERTAIN REPORTS TO BE MADE BY LOBBYISTS' EMPLOYERS; CHANGING REPORTING REQUIREMENTS; EXTENDING THE RETENTION PERIOD FOR REPORTS; REQUIRING REPORTS TO BE POSTED ONLINE; CHANGING REGISTRATION FEES.

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

Chapter 56 Section 1 Laws 2015

SECTION 1. Section 2-11-3 NMSA 1978 (being Laws 1977, Chapter 261, Section 3, as amended) is amended to read:

"2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--
MODIFICATION TO STATEMENT.--

A. In the month of January prior to each regular session or before any service covered by the Lobbyist Regulation Act commences, any individual who is initially employed or retained as a lobbyist shall register with the secretary of state by paying an annual filing fee of fifty dollars (\$50.00) for each of the lobbyist's employers and by filing a single registration statement under oath on a prescribed form showing:

(1) the lobbyist's full name, permanent business address and business address while lobbying; and

(2) the name and address of each of the lobbyist's employers.

B. No registration fee shall be required of individuals receiving only reimbursement of personal expenses and no other compensation or salary for lobbying. No expenditure statement required by Section 2-11-6 NMSA 1978 shall be required if the lobbyist anticipates making or incurring and makes or incurs no expenditures or political contributions under Section 2-11-6 NMSA 1978. The lobbyist shall indicate in the lobbyist's registration statement whether those circumstances apply to the lobbyist.

C. No more than five days after a registration is filed, the secretary of state shall publish the registration statement on the secretary of state's lobbying disclosure web site.

D. For each employer listed in Paragraph (2) of Subsection A of this section, the lobbyist shall file the following information:

(1) a full disclosure of the sources of funds used for lobbying;

(2) a written statement from each of the lobbyist's employers authorizing the lobbyist to lobby on the employer's behalf;

(3) a brief description of the matters in reference to which the service is to be rendered; and

(4) the name and address of the person, if other than the lobbyist or the lobbyist's employer, who will have custody of the accounts, bills, receipts, books,

papers and documents required to be kept under the provisions of the Lobbyist Regulation Act.

E. For each succeeding year that an individual is employed or retained as a lobbyist by the same employer, and for whom all the information disclosed in the initial registration statement remains substantially the same, the lobbyist shall file a simple annual registration renewal in January and pay the fifty-dollar (\$50.00) filing fee for each of the lobbyist's employers together with a short, abbreviated prescribed form for renewal.

F. Whenever there is a modification of the facts required to be set forth by this section or there is a termination of the lobbyist's employment as a lobbyist before the end of the calendar year, the lobbyist shall notify the secretary of state within one month of such occurrence and shall furnish full information concerning the modification or termination. If the lobbyist's employment terminates at the end of a calendar year, no separate termination report need be filed."

Chapter 56 Section 2 Laws 2015

SECTION 2. Section 2-11-6 NMSA 1978 (being Laws 1977, Chapter 261, Section 6, as amended) is amended to read:

"2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--REPORTING PERIODS.--

A. Each lobbyist or lobbyist's employer who makes or incurs expenditures or political contributions for the benefit of or in opposition to a state legislator or candidate for the state legislature, a state public officer or candidate for state public office, a board or commission member or state employee who is involved in an official action affecting the lobbyist's employer or in support of or in opposition to a ballot issue or pending legislation or official action shall file an expenditure report with the secretary of state on a prescribed form or in an electronic format approved by the secretary of state and published by the secretary of state in accordance with Section 2-11-7 NMSA 1978. The expenditure report shall include a sworn statement that sets forth:

(1) the cumulative total of the expenditures made or incurred by the employer or lobbyist during the covered reporting period, indicating the amount spent and a description of the expenditure. The list shall be separated into the following categories:

- (a) meals and beverages;
- (b) other entertainment expenditures;
- (c) gifts; and

(d) other expenditures;

(2) each political contribution made, identified by amount, date and name of the candidate or ballot issue supported or opposed; and

(3) the names, addresses and occupations of other contributors and the amounts of their separate political contributions if the lobbyist or lobbyist's employer delivers directly or indirectly separate contributions from those contributors in excess of five hundred dollars (\$500) in the aggregate for each election to a candidate, a campaign committee or anyone authorized by a candidate to receive funds on the candidate's behalf.

B. If the expenditure report is filed electronically, the report shall be electronically authenticated by the lobbyist or the lobbyist's employer using an electronic signature as prescribed by the secretary of state in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. For the purposes of the Lobbyist Regulation Act, a report that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the lobbyist or the lobbyist's employer that is required to file the report.

C. In identifying expenditures pursuant to the provisions of Paragraph (1) of Subsection A of this section, any individual expenditure that is more than the threshold level established in the Internal Revenue Code of 1986, as amended, that must be reported separately to claim a business expense deduction, as published by the secretary of state, shall be identified by amount, date, purpose, type of expenditure and name of the person who received or was benefited by the expenditure; provided, in the case of special events, including parties, dinners, athletic events, entertainment and other functions, to which all members of the legislature, to which all members of either house or any legislative committee or to which all members of a board or commission are invited, expenses need not be allocated to each individual who attended, but the date, location, name of the body invited and total expenses incurred shall be reported.

D. The reports required pursuant to the provisions of the Lobbyist Regulation Act shall be filed:

(1) by January 15 for all expenditures and political contributions made or incurred during the preceding year and not previously reported;

(2) within forty-eight hours for each separate expenditure made or incurred during a legislative session that was for five hundred dollars (\$500) or more; and

(3) by May 1 for all expenditures and political contributions made or incurred through April 25 of the current year and not previously reported.

E. A lobbyist's personal living expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer need not be reported.

F. A lobbyist or lobbyist's employer shall obtain and preserve all records, accounts, bills, receipts, books, papers and documents necessary to substantiate the financial statements required to be made under the Lobbyist Regulation Act for a period of two years from the date of filing of the report containing such items. When the lobbyist is required under the terms of the lobbyist's employment to turn over any such records to the lobbyist's employer, responsibility for the preservation of them as required by this section and the filing of reports required by this section shall rest with the employer. Such records shall be made available to the secretary of state or attorney general upon written request.

G. A lobbyist's employer who also engages in lobbying shall also comply with the provisions of this section.

H. An organization of two or more persons, including an individual who makes any representation as being an organization, that within one calendar year expends funds in excess of two thousand five hundred dollars (\$2,500) not otherwise reported under the Lobbyist Regulation Act to conduct an advertising campaign for the purpose of lobbying shall register with the secretary of state within forty-eight hours after expending two thousand five hundred dollars (\$2,500). Such registration shall indicate the name of the organization and the names, addresses and occupations of any of its principals, organizers or officers and shall include the name of any lobbyist or lobbyist's employer who is a member of the organization. Within fifteen days after a legislative session, the organization shall report the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses and occupations of the contributors, to the secretary of state on a prescribed form."

Chapter 56 Section 3 Laws 2015

SECTION 3. Section 2-11-7 NMSA 1978 (being Laws 1977, Chapter 261, Section 7, as amended) is amended to read:

"2-11-7. REGISTRATION AND EXPENDITURE STATEMENT--PRESERVATION AS PUBLIC RECORD--ONLINE REPORTS.--

A. Each registration and expenditure statement as required by the Lobbyist Regulation Act shall be archived and accessible on the secretary of state's lobbyist disclosure web site for a period of at least ten years from the date of filing as a public record, open to public inspection at any reasonable time. Unless an action or prosecution is pending that requires preserving the report, it may be destroyed ten years after the date of filing.

B. Lobbyist registrations and expenditure statements shall be kept and maintained on the secretary of state's lobbyist disclosure web site and shall be available in searchable and downloadable formats. The secretary of state shall update the web site no less than monthly throughout the year and as expeditiously as possible when the legislature is in session.

C. For the purposes of this section, "accessible" means, with respect to the secretary of state's lobbyist disclosure web site, that all records are easily searchable, sortable and downloadable by the public."

House Bill 155, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 57

AN ACT

RELATING TO SCHOOL TRANSPORTATION; CHANGING THE DATES FOR REPORTING SCHOOL TRANSPORTATION INFORMATION TO THE PUBLIC EDUCATION DEPARTMENT; CHANGING THE BASIS FOR DETERMINING TRANSPORTATION DISTRIBUTION ALLOCATIONS.

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

Chapter 57 Section 1 Laws 2015

SECTION 1. Section 22-8-29 NMSA 1978 (being Laws 1967, Chapter 16, Section 78, as amended) is amended to read:

"22-8-29. TRANSPORTATION DISTRIBUTIONS--REPORTS--PAYMENTS.--

A. On the second reporting date and the third reporting date of each year, each local school board of a school district and governing body of a state-chartered charter school shall report to the state transportation director, upon forms furnished by the state transportation director, the following information concerning the school district's or state-chartered charter school's operation on each respective reporting date of the current year:

(1) the number and designation of school bus routes in operation in the school district;

(2) the number of miles traveled by each school bus on each school bus route, showing the route mileage in accordance with the type of road surface traveled;

(3) the number of students, including special education students, transported on each reporting date of the current year and adjusted for special education students on December 1;

(4) the projected number of students to be transported in the next school year;

(5) the seating capacity, age and mileage of each bus used in the school district for student transportation; and

(6) the number of total miles traveled for each school district's or state-chartered charter school's per capita feeder routes.

B. Each local school board of a school district and governing body of a state-chartered charter school maintaining a school bus route shall make further reports to the state transportation director at other times specified by the state transportation director.

C. The state transportation director shall certify to the secretary that the allocations from the transportation distributions to each school district and state-chartered charter school are based upon the transportation distribution formula established in the Public School Code calculated and distributed for the entire school year using an average of the amounts reported on the second reporting date and third reporting date of the prior school year, and subject to audit and verification.

D. The department shall make periodic installment payments to school districts and state-chartered charter schools during the school year from the transportation distributions, based upon the allocations certified by the state transportation director."

Chapter 57 Section 2 Laws 2015

SECTION 2. TEMPORARY PROVISION.--Notwithstanding the provisions of this act, for the transportation distribution for fiscal year 2016, the allocation shall be based upon the tentative transportation budget of the school district or state-chartered charter school for fiscal year 2016. Allocations to a school district or state-chartered charter school for the remainder of the school year shall adjust the amount received by the school district or state-chartered charter school so that it equals the amount the school district or state-chartered charter school is entitled to receive based upon the number of students transported on the first reporting date of fiscal year 2016 and adjusted for special education students on December 1, and subject to audit and verification.

Chapter 57 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 164, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 58

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING AND REPEALING SECTIONS OF THE PUBLIC SCHOOL CODE TO REMOVE REFERENCES TO "ADEQUATE YEARLY PROGRESS" AND TO MAKE TECHNICAL CHANGES.

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

Chapter 58 Section 1 Laws 2015

SECTION 1. Section 22-1-1.2 NMSA 1978 (being Laws 2003, Chapter 153, Section 2, as amended by Laws 2007, Chapter 307, Section 1 and by Laws 2007, Chapter 308, Section 1) is amended to read:

"22-1-1.2. LEGISLATIVE FINDINGS AND PURPOSE.--

A. The legislature finds that no education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn and succeed and that the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.

B. The legislature finds further that the key to student success in New Mexico is to have a multicultural education system that:

(1) attracts and retains quality and diverse teachers to teach New Mexico's multicultural student population;

(2) holds teachers, students, schools, school districts and the state accountable;

(3) integrates the cultural strengths of its diverse student population into the curriculum with high expectations for all students;

(4) recognizes that cultural diversity in the state presents special challenges for policymakers, administrators, teachers and students;

(5) provides students with a rigorous and relevant high school curriculum that prepares them to succeed in college and the workplace; and

(6) elevates the importance of public education in the state by clarifying the governance structure at different levels.

C. The legislature finds further that the teacher shortage in this country has affected the ability of New Mexico to compete for the best teachers and that, unless the state and school districts find ways to mentor beginning teachers, intervene with teachers while they still show promise, improve the job satisfaction of quality teachers and elevate the teaching profession by shifting to a professional educator licensing and salary system, public schools will be unable to recruit and retain the highest quality teachers in the teaching profession in New Mexico.

D. The legislature finds further that a well-designed, well-implemented and well-maintained assessment and accountability system is the linchpin of public school reform and must ensure that:

(1) students who do not meet or exceed expectations will be given individual attention and assistance through extended learning programs and individualized tutoring;

(2) students have accurate, useful information about their options and the adequacy of their preparation for post-secondary education, training or employment in order to set and achieve high goals;

(3) teachers who do not meet performance standards must improve their skills or they will not continue to be employed as teachers;

(4) public schools make progress toward educational excellence;
and

(5) school districts and the state are prepared to actively intervene and improve failing public schools.

E. The legislature finds further that improving children's reading and writing abilities and literacy throughout their years in school must remain a priority of the state.

F. The legislature finds further that the public school governance structure needs to change to provide accountability from the bottom up instead of from the top down. Each school principal, with the help of school councils made up of parents and teachers, must be the instructional leader in the public school, motivating and holding

accountable both teachers and students. Each local superintendent must function as the school district's chief executive officer and have responsibility for the day-to-day operations of the school district, including personnel and student disciplinary decisions.

G. It is the purpose of the 2003 public school reform legislation as augmented by this 2007 legislation to provide the framework to implement the legislative findings to ensure student success in New Mexico."

Chapter 58 Section 2 Laws 2015

SECTION 2. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level;

B. "commission" means the public education commission;

C. "department" means the public education department;

D. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

E. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

F. "licensed school employee" means teachers, school administrators and instructional support providers;

G. "local school board" means the policy-setting body of a school district;

H. "local superintendent" means the chief executive officer of a school district;

I. "parent" includes a guardian or other person having custody and control of a school-age person;

J. "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

K. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

L. "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

M. "school administrator" means a person licensed to administer in a school district and includes school principals and central district administrators;

N. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution;

O. "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;

P. "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

Q. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

R. "school employee" includes licensed and nonlicensed employees of a school district;

S. "school principal" means the chief instructional leader and administrative head of a public school;

T. "school year" means the total number of contract days offered by public schools in a school district during a period of twelve consecutive months;

U. "secretary" means the secretary of public education;

V. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

W. "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico;

X. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

Y. "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

Z. "certified school instructor" means a teacher or instructional support provider; and

AA. "certified school employee" or "certified school personnel" means a licensed school employee."

Chapter 58 Section 3 Laws 2015

SECTION 3. 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, 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. Any 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 Compulsory School Attendance Law, 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 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 enrolled in a school rated as "F" for two of the prior four years pursuant to the A-B-C-D-F Schools Rating Act;

(c) third, students who previously attended the public school;
and

(d) fourth, 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 third and fourth priorities of enrollment set forth in Subparagraphs (c) and (d) 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 through fourth priority, 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."

Chapter 58 Section 4 Laws 2015

SECTION 4. A new section of the Assessment and Accountability Act is enacted to read:

"REPORTING RECOMMENDED CHANGES TO LAWS.--By the end of the 2015 calendar year and each calendar year thereafter, the department shall report to the legislative education study committee the department's recommendations for proposed changes to laws to comport with any applicable federal requirements."

Chapter 58 Section 5 Laws 2015

SECTION 5. Section 22-2C-3 NMSA 1978 (being Laws 2003, Chapter 153, Section 12) is amended to read:

"22-2C-3. ACADEMIC CONTENT AND PERFORMANCE STANDARDS--
DEPARTMENT POWERS AND DUTIES.--

A. The department shall adopt academic content and performance standards for grades one through twelve in the following areas:

- (1) mathematics;
- (2) reading and language arts;
- (3) science; and
- (4) social studies.

B. The department may adopt content and performance standards in other subject areas.

C. Academic content and performance standards shall be sufficiently academically challenging to meet or exceed any applicable federal requirements.

D. The department shall measure the performance of every public school in New Mexico."

Chapter 58 Section 6 Laws 2015

SECTION 6. Section 22-2C-4 NMSA 1978 (being Laws 2003, Chapter 153, Section 13, as amended by Laws 2007, Chapter 306, Section 1 and by Laws 2007, Chapter 307, Section 3 and also by Laws 2007, Chapter 308, Section 3) is amended to read:

"22-2C-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY SYSTEM--
INDICATORS--REQUIRED ASSESSMENTS--ALTERNATIVE ASSESSMENTS--
LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING ASSESSMENTS.--

A. The department shall establish a statewide assessment and accountability system that is aligned with the state academic content and performance standards.

B. The academic assessment program shall test student achievement as follows:

- (1) for grades three through eight and for grade eleven, standards-based assessments in mathematics, reading and language arts;

(2) for grades three through eight, a standards-based writing assessment with the writing assessment scoring criteria applied to the extended response writing portions of the language arts standards-based assessments; and

(3) for one of grades three through five and six through eight and for grade eleven, standards-based assessments in science by the 2007-2008 school year.

C. The department shall involve appropriate licensed school employees in the development of the standards-based assessments.

D. Before August 5 of each year, the department shall provide student scores on all standards-based assessments taken during the prior school year and required in Subsection B of this section to students' respective school districts in order to make test score data available to assist school district staff with appropriate grade-level and other placement for the current school year.

E. All students shall participate in the academic assessment program. The department shall adopt standards for reasonable accommodations in standards-based assessments for students with disabilities and limited English proficiency, including when and how accommodations may be applied. The legislative education study committee shall review the standards prior to adoption by the department.

F. Students who have been determined to be limited English proficient may be allowed to take the standards-based assessment in their primary language. A student who has attended school for three consecutive years in the United States shall participate in the English language reading assessment unless granted a waiver by the department based on criteria established by the department. An English language reading assessment waiver may be granted only for a maximum of two additional years and only on a case-by-case basis."

Chapter 58 Section 7 Laws 2015

SECTION 7. Section 22-2C-5 NMSA 1978 (being Laws 2003, Chapter 153, Section 14, as amended) is amended to read:

"22-2C-5. MEASURING AND CATEGORIZING STUDENTS' ACADEMIC PERFORMANCE.--The department shall adopt the process and methodology for measuring students' academic performance. Academic performance shall be categorized by school and by the following subgroups:

- A. ethnicity;
- B. race;
- C. limited English proficiency;

D. students with disabilities; and

E. poverty."

Chapter 58 Section 8 Laws 2015

SECTION 8. Section 22-2C-8 NMSA 1978 (being Laws 2003, Chapter 153, Section 17) is amended to read:

"22-2C-8. STATE IMPROVING SCHOOLS PROGRAM.--

The department may institute a "state improving schools program" that measures public school improvement through school safety, dropout rate, parent and community involvement and graduation and attendance rates. Those indicators may be weighed against socioeconomic variables such as the percentage of student mobility rates, the percentage of limited English proficient students using criteria established by the federal office of civil rights and the percentage of students eligible for free or reduced-fee lunches and other factors determined by the department. Public schools that show the greatest improvement may be eligible for supplemental funding from the incentives for school improvement fund pursuant to Section 22-2C-9 NMSA 1978. Funding for the state improving schools program may include federal funds allowable under federal law or rule."

Chapter 58 Section 9 Laws 2015

SECTION 9. Section 22-2C-9 NMSA 1978 (being Laws 2003, Chapter 153, Section 18) is amended to read:

"22-2C-9. INCENTIVES FOR SCHOOL IMPROVEMENT FUND--CREATED-- DISTRIBUTIONS.--

A. The "incentives for school improvement fund" is created in the state treasury. The fund includes appropriations, federal allocations for the purposes of the fund, income from investment of the fund, gifts, grants and donations. Balances in the fund shall not revert to any other fund at the end of any fiscal year. The fund shall be administered by the department, and money in the fund is appropriated to the department to provide supplemental incentive funding for the state improving schools program. No more than three percent of the fund may be retained by the department for administrative purposes. Money in the fund shall be expended on warrants of the secretary of finance and administration pursuant to vouchers signed by the secretary of public education or the secretary's authorized representative.

B. The department shall adopt a formula for distributing incentive funding from the fund. The total number of public schools that receive supplemental funding shall not constitute more than fifteen percent of the student membership in the state. Distributions shall be made proportionately to public schools that qualify.

C. Each public school's school council shall determine how the supplemental funding shall be used. The money received by a public school shall not be used for salaries, salary increases or bonuses, but may be used to pay substitute teachers when teachers attend professional development activities."

Chapter 58 Section 10 Laws 2015

SECTION 10. Section 22-2C-10 NMSA 1978 (being Laws 2003, Chapter 153, Section 19) is amended to read:

"22-2C-10. SCHOOLS IN NEED OF IMPROVEMENT FUND--CREATED.--

A. The "schools in need of improvement fund" is created in the state treasury. The fund includes appropriations, federal allocations for the purposes of the fund, income from investment of the fund, gifts, grants and donations. Balances in the fund shall not revert to any other fund at the end of any fiscal year. The fund shall be administered by the department, and money in the fund is appropriated to the department to provide assistance to public schools in need of improvement. No more than three percent of the fund may be retained by the department for administrative purposes. Money in the fund shall be expended on warrants of the secretary of finance and administration pursuant to vouchers signed by the secretary of public education or the secretary's authorized representative.

B. Distributions from the fund shall be by application approved by the department."

Chapter 58 Section 11 Laws 2015

SECTION 11. Section 22-2C-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 20, as amended) is amended to read:

"22-2C-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM REPORTING--PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

A. The department shall:

(1) issue a state identification number for each public school student for use in the accountability data system;

(2) adopt the format for reporting individual student assessments to parents. The student assessments shall report each student's progress and academic needs as measured against state standards;

(3) adopt the format for reporting annual progress of public schools, school districts, state-chartered charter schools and the department. A school district's report shall include reports of all locally chartered charter schools in the school district. If

the department has adopted a state improving schools program, the annual accountability report shall include the results of that program for each public school. The annual accountability report format shall be clear, concise and understandable to parents and the general public. All annual accountability reports shall ensure that the privacy of individual students is protected;

(4) require that when public schools, school districts, state-chartered charter schools and the state disaggregate and report school data for demographic subgroups, they include data disaggregated by ethnicity, race, limited English proficiency, students with disabilities, poverty and gender; provided that ethnicity and race shall be reported using the following categories:

- (a) Caucasian, non-Hispanic;
- (b) Hispanic;
- (c) African American;
- (d) American Indian or Alaska Native;
- (e) Native Hawaiian or other Pacific Islander;
- (f) Asian;
- (g) two or more races; and

(h) other; provided that if the sample of students in any category enumerated in Subparagraphs (a) through (g) of this paragraph is so small that a student in the sample may be personally identifiable in violation of the federal Family Educational Rights and Privacy Act of 1974, the report may combine that sample into the "other" category;

(5) report cohort graduation data annually for the state, for each school district and for each state-chartered charter school and each public high school, based on information provided by all school districts and state-chartered charter schools according to procedures established by the department; provided that the report shall include the number and percentage of students in a cohort who:

- (a) have graduated by August 1 of the fourth year after entering the ninth grade;
- (b) have graduated in more than four years, but by August 1 of the fifth year after entering ninth grade;
- (c) have received a state certificate by exiting the school system at the end of grade twelve without having satisfied the requirements for a high

school diploma as provided in Section 22-13-1.1 NMSA 1978 or completed all course requirements but have not passed the graduation assessment or portfolio of standards-based indicators pursuant to Section 22-13-1.1 NMSA 1978;

(d) have dropped out or whose status is unknown;

(e) have exited public school and indicated an intent to pursue a high school equivalency credential; or

(f) are still enrolled in public school;

(6) report annually, based on data provided by school districts and state-chartered charter schools, the number and percentage of public school students in each cohort in the state in grades nine through twelve who have advanced to the next grade or graduated on schedule, who remain enrolled but have not advanced to the next grade on schedule, who have dropped out or whose other educational outcomes are known to the department; and

(7) establish technical criteria and procedures to define which students are included or excluded from a cohort.

B. Local school boards and governing boards of charter schools may establish additional indicators through which to measure the school district's or charter school's performance.

C. The school district's or state-chartered charter school's annual accountability report shall include a report of four- and five-year graduation rates for each public high school in the school district or state-chartered charter school. All annual accountability reports shall ensure that the privacy of individual students is protected. As part of the graduation rate data, the school district or state-chartered charter school shall include data showing the number and percentage of students in the cohort:

(1) who have received a state certificate by exiting the school system at the end of grade twelve without having satisfied the requirements for a high school diploma as provided in Section 22-13-1.1 NMSA 1978 or completed all course requirements but have not passed the graduation assessment or portfolio of standards-based indicators pursuant to Section 22-13-1.1 NMSA 1978;

(2) who have dropped out or whose status is unknown;

(3) who have exited public school and indicated an intent to pursue a high school equivalency credential;

(4) who are still enrolled; and

(5) whose other educational outcomes are known to the school district.

D. The school district's or state-chartered charter school's annual accountability report shall include the results of a survey of parents' views of the quality of their children's school. The survey shall be conducted each year in time to include the results in the annual accountability report. The survey shall compile the results of a written questionnaire that shall be sent home with the students to be given to their parents. The survey may be completed anonymously. The survey shall be no more than one page, shall be clearly and concisely written and shall include not more than twenty questions that shall be answered with options of a simple sliding scale ranging from "strongly agree" to "strongly disagree" and shall include the optional response "don't know". The survey shall also include a request for optional written comments, which may be written on the back of the questionnaire form. The questionnaire shall include questions in the following areas:

- (1) parent-teacher-school relationship and communication;
- (2) quality of educational and extracurricular programs;
- (3) instructional practices and techniques;
- (4) resources;
- (5) school employees, including the school principal; and
- (6) parents' views of teaching staff expectations for the students.

E. The department shall develop no more than ten of the survey questions, which shall be reviewed by the legislative education study committee prior to implementation. No more than five survey questions shall be developed by the local school board or governing body of a state-chartered charter school, and no more than five survey questions shall be developed by the staff of each public school; provided that at least one-half of those questions shall be developed by teachers rather than school administrators, in order to gather information that is specific to the particular community surveyed. The questionnaires shall indicate the public school site and shall be tabulated by the department within thirty days of receipt and shall be returned to the respective schools to be disseminated to all parents.

F. The school district's or state-chartered charter school's annual accountability report shall be adopted by the local school board or governing body of the state-chartered charter school, shall be published no later than November 15 of each year and shall be published at least once each school year in a newspaper of general circulation in the county where the school district or state-chartered charter school is located. In publication, the report shall be titled "The School District Report Card" or "The Charter School Report Card" and disseminated in accordance with guidelines

established by the department to ensure effective communication with parents, students, educators, local policymakers and business and community organizations.

G. The annual accountability report shall include the names of those members of the local school board or the governing body of the charter school who failed to attend annual mandatory training.

H. The annual accountability report shall include data on expenditures for central office administration and expenditures for the public schools of the school district or charter school.

I. The department shall create an accountability data system through which data from each public school and each school district or state-chartered charter school may be compiled and reviewed. The department shall provide the resources to train school district and charter school personnel in the use of the accountability data system.

J. The department shall verify data submitted by the school districts and state-chartered charter schools.

K. At the end of fiscal year 2005, after the budget approval cycle, the department shall produce a report to the legislature that shows for all school districts using performance-based program budgeting the relationship between that portion of a school district's program cost generated by each public school in the school district and the budgeted expenditures for each public school in the school district as reported in the district's performance-based program budget. At the end of fiscal year 2006 and subsequent fiscal years, after the budget approval cycle, the department shall report on this relationship in all public schools in all school districts in the state.

L. When all public schools are participating in performance-based budgeting, the department shall recommend annually to the legislature for inclusion in the general appropriation act the maximum percentage of appropriations that may be expended in each school district for central office administration.

M. The department shall disseminate its statewide accountability report to school districts and charter schools; the governor, legislators and other policymakers; and business and economic development organizations.

N. As used in this section, "cohort" means a group of students who enter grade nine for the first time at the same time, plus those students who transfer into the group in later years and minus those students who leave the cohort for documented excusable reasons."

Chapter 58 Section 12 Laws 2015

SECTION 12. Section 22-8E-6 NMSA 1978 (being Laws 2005, Chapter 292, Section 6) is amended to read:

"22-8E-6. RENEWAL OF CHARTER.--

A. A charter for a charter school district may be renewed for successive periods of five years each.

B. Before it submits an application for renewal to the department, the local school board shall hold a public hearing to adopt a resolution approving the application for renewal.

C. A charter school district renewal application submitted to the department shall contain:

(1) a report on the progress that the charter school district has made toward achieving the goals of its charter;

(2) a petition in support of the charter school district renewing its charter school district status signed by not less than sixty-five percent of the employees in the charter school district;

(3) a resolution by the local school board requesting renewal of the charter; and

(4) any other information that the department deems appropriate."

Chapter 58 Section 13 Laws 2015

SECTION 13. Section 22-10A-14 NMSA 1978 (being Laws 2003, Chapter 153, Section 45) is amended to read:

"22-10A-14. CERTIFICATES OF WAIVER.--

A. If a local superintendent or governing authority of a state agency certifies to the department that an emergency exists in the hiring of a qualified person, the department may issue a certificate of teaching waiver or assignment waiver.

B. The department may issue a certificate of teaching waiver to a person who holds a baccalaureate degree but does not meet other requirements for licensure as a level one teacher. Certificates of teaching waivers are one-year waivers and may be renewed only if the holder provides satisfactory evidence of continued progress toward a level one license.

C. At the request of a local superintendent, the department may issue a certificate of assignment waiver to a licensed teacher who is assigned to teach outside

the teacher's teaching endorsement area. A certificate of assignment waiver may be renewed each school year if the teacher provides satisfactory evidence of continued progress toward meeting the requirements for endorsement."

Chapter 58 Section 14 Laws 2015

SECTION 14. Section 22-23B-6 NMSA 1978 (being Laws 2010, Chapter 108, Section 6 and Laws 2010, Chapter 114, Section 6) is amended to read:

"22-23B-6. STATEWIDE STATUS REPORT.--

A. The department, in collaboration with the higher education department, shall submit an annual preschool through post-secondary statewide Hispanic education status report no later than November 15 to the governor and the legislature through the legislative education study committee. A copy shall be provided to the legislative library in the legislative council service.

B. The status report shall include the following information, by school district, by charter school and statewide, which may be compiled from data otherwise required to be submitted to the department:

(1) Hispanic student achievement at all grades;

(2) attendance for all grades;

(3) the graduation rates for Hispanic students; and

(4) the number and type of bilingual and multicultural programs in each school district and charter school.

C. The status report shall include the following information, by post-secondary educational institution, which may be compiled from data otherwise required to be submitted to the higher education department:

(1) Hispanic student enrollment;

(2) Hispanic student retention; and

(3) Hispanic student completion rates."

Chapter 58 Section 15 Laws 2015

SECTION 15. REPEAL.--Sections 22-2C-7, 22-2C-7.1 and 22-2C-12 NMSA 1978 (being Laws 2003, Chapter 153, Section 16, Laws 2007, Chapter 309, Section 6 and Laws 2009, Chapter 189, Section 1, as amended) are repealed.

House Bill 165

Approved April 7, 2015

LAWS 2015, CHAPTER 59

AN ACT

RELATING TO HEALTH CARE; AMENDING A SECTION OF THE MEDICAL MALPRACTICE ACT TO ESTABLISH CERTAIN CONDITIONS FOR BIRTHING WORKFORCE RETENTION FUND AWARDS.

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

Chapter 59 Section 1 Laws 2015

SECTION 1. Section 41-5-26.1 NMSA 1978 (being Laws 2008, Chapter 73, Section 1) is amended to read:

"41-5-26.1. BIRTHING WORKFORCE RETENTION FUND CREATED.--

A. The "birthing workforce retention fund" is created in the state treasury. The purpose of the fund is to provide malpractice insurance premium assistance for certified nurse-midwives or physicians whose insurance premium costs jeopardize their ability to continue their obstetrics practices in New Mexico. The fund shall consist of appropriations, gifts, grants and donations to the fund. The fund shall be administered by the department of health, and money in the fund is appropriated to the department of health for the purpose of making awards pursuant to the provisions of this section.

B. The department of health shall develop procedures and rules for the application for and award of money from the birthing workforce retention fund, including criteria upon which to evaluate the need of the applicant and the merits of the application. The rules shall require that the applicant be a certified nurse-midwife licensed in New Mexico or a physician licensed in New Mexico and that the applicant demonstrate need by showing that medicaid patients or indigent patients constitute at least one-half of the obstetric practice of the applicant. The certified nurse-midwife or physician shall have a malpractice liability insurance policy in force. Subject to availability of funds, an award shall not be less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000). An award shall be disbursed based on the percentage of medicaid patients or indigent patients seen in the practice and on the certified nurse-midwife's or the physician's intent to continue obstetrics practice in New Mexico during the period covered by the award. An award shall not be granted to provide premium assistance for tail coverage purchased upon practice termination.

Priority for the awarding of money from the birthing workforce retention fund shall be in the following order:

- (1) to certified nurse-midwives; and
- (2) to family practice physicians and obstetricians.

C. The department of health shall annually report to the legislative finance committee on the status of the birthing workforce retention fund.

D. Disbursements from the birthing workforce retention fund shall be made by warrant of the department of finance and administration pursuant to vouchers signed by the secretary of health or the secretary's authorized representative. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert but shall remain to the credit of the fund.

E. As used in this section, "tail coverage" means insurance coverage providing an extended reporting period for any claims related to conduct that occurred during the period covered by a claims-based medical malpractice policy after it has expired or been canceled."

House Bill 171

Approved April 7, 2015

LAWS 2015, CHAPTER 60

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL CODE TO REQUIRE INCLUSION OF CERTAIN CAREER TECHNICAL EDUCATION COURSES AS ELECTIVES AND TO DEFINE CERTAIN CAREER TECHNICAL EDUCATION TERMS.

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

Chapter 60 Section 1 Laws 2015

SECTION 1. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended by Laws 2014, Chapter 9, Section 3 and by Laws 2014, Chapter 70, Section 1 and also by Laws 2014, Chapter 71, Section 1) is amended to read:

"22-13-1.1. GRADUATION REQUIREMENTS.--

A. At the end of grades eight through eleven, each student shall prepare an interim next-step plan that sets forth the coursework for the grades remaining until high school graduation. Each year's plan shall explain any differences from previous interim next-step plans, shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

B. Each student must complete a final next-step plan during the senior year and prior to graduation. The plan shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

C. An individualized education program that meets the requirements of Subsections A and B of this section and that meets all applicable transition and procedural requirements of the federal Individuals with Disabilities Education Act for a student with a disability shall satisfy the next-step plan requirements of this section for that student.

D. A local school board shall ensure that each high school student has the opportunity to develop a next-step plan based on reports of college and workplace readiness assessments, as available, and other factors and is reasonably informed about:

(1) curricular and course options, including honors or advanced placement courses, dual-credit courses, distance learning courses, career clusters and career pathways, pre-apprenticeship programs or remediation programs that the college and workplace readiness assessments indicate to be appropriate;

(2) opportunities available that lead to different post-high-school options; and

(3) alternative opportunities available if the student does not finish a planned curriculum.

E. The secretary shall:

(1) establish specific accountability standards for administrators, counselors, teachers and school district staff to ensure that every student has the opportunity to develop a next-step plan;

(2) promulgate rules for accredited private schools in order to ensure substantial compliance with the provisions of this section;

(3) monitor compliance with the requirements of this section; and

(4) compile such information as is necessary to evaluate the success of next-step plans and report annually, by December 15, to the legislative education study committee and the governor.

F. Once a student has entered ninth grade, the graduation requirements shall not be changed for that student from the requirements specified in the law at the time the student entered ninth grade.

G. Successful completion of a minimum of twenty-three units aligned to the state academic content and performance standards shall be required for graduation. These units shall be as follows:

(1) four units in English, with major emphasis on grammar and literature;

(2) three units in mathematics, at least one of which is equivalent to the algebra 1 level or higher;

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

(4) three units in social science, which shall include United States history and geography, world history and geography and government and economics;

(5) one unit in physical education;

(6) one unit in communication skills or business education, with a major emphasis on writing and speaking and that may include a language other than English;

(7) one-half unit in New Mexico history for students entering the ninth grade beginning in the 2005-2006 school year; and

(8) nine elective units and seven and one-half elective units for students entering the ninth grade in the 2005-2006 school year that meet department content and performance standards. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective. Pre-apprenticeship programs may be offered as electives. Media literacy may be offered as an elective.

H. For students entering the ninth grade beginning in the 2009-2010 school year, at least one of the units required for graduation shall be earned as an advanced placement or honors course, a dual-credit course offered in cooperation with an institution of higher education or a distance learning course.

I. The department shall establish a procedure for students to be awarded credit through completion of specified career technical education courses for certain graduation requirements and districts may choose to allow students who successfully complete an industry-recognized credential, certificate or degree to receive additional weight in the calculation of the student's grade point average.

J. Successful completion of the requirements of the New Mexico diploma of excellence shall be required for graduation for students entering the ninth grade beginning in the 2009-2010 school year. Successful completion of a minimum of twenty-four units aligned to the state academic content and performance standards shall be required to earn a New Mexico diploma of excellence. These units shall be as follows:

(1) four units in English, with major emphasis on grammar, nonfiction writing and literature;

(2) four units in mathematics, of which one shall be the equivalent to or higher than the level of algebra 2, unless the parent submitted written, signed permission for the student to complete a lesser mathematics unit; and provided that a financial literacy course that meets state mathematics academic content and performance standards shall qualify as one of the four required mathematics units;

(3) three units in science, two of which shall have a laboratory component;

(4) three and one-half units in social science, which shall include United States history and geography, world history and geography, government and economics and one-half unit of New Mexico history;

(5) one unit in physical education, as determined by each school district, which may include a physical education program that meets state content and performance standards or participation in marching band, junior reserve officers' training corps or interscholastic sports sanctioned by the New Mexico activities association or any other co-curricular physical activity;

(6) one unit in one of the following: a career cluster course, workplace readiness or a language other than English; and

(7) seven and one-half elective units that meet department content and performance standards. Career and technical education courses shall be offered as an elective. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective. Pre-apprenticeship programs may be offered as electives. Media literacy may be offered as an elective.

K. For students entering the eighth grade in the 2012-2013 school year, a course in health education is required prior to graduation. Health education may be required in either middle school or high school, as determined by the school district.

Each school district shall submit to the department by the beginning of the 2011-2012 school year a health education implementation plan for the 2012-2013 and subsequent school years, including in which grade health education will be required and how the course aligns with department content and performance standards. Health education shall include age-appropriate sexual abuse and assault awareness and prevention training that meets department standards developed in consultation with the federal centers for disease control and prevention that are based on evidence-based methods that have proven to be effective.

L. Final examinations shall be administered to all students in all classes offered for credit.

M. Until July 1, 2010, a student who has not passed a state graduation examination in the subject areas of reading, English, mathematics, writing, science and social science shall not receive a high school diploma. The state graduation examination on social science shall include a section on the constitution of the United States and the constitution of New Mexico. If a student exits from the school system at the end of grade twelve without having passed a state graduation examination, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student takes and passes the state graduation examination, the student may receive a high school diploma. Any student passing the state graduation examination and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which completion and examination occur.

N. Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule. The standards-based assessments required in Section 22-2C-4 NMSA 1978 may also serve as the assessment required for high school graduation. If a student exits from the school system at the end of grade twelve without having satisfied the requirements of this subsection, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student satisfies the requirement of this subsection, the student may receive a New Mexico diploma of excellence. Any student satisfying the requirements of this subsection and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which all requirements are satisfied.

O. As used in this section:

(1) "career and technical education", sometimes referred to as "vocational education", means organized programs offering a sequence of courses, including technical education and applied technology education, that are directly related to the preparation of individuals for paid or unpaid employment in current or emerging occupations requiring an industry-recognized credential, certificate or degree;

(2) "career and technical education course" means a course with content that provides technical knowledge, skills and competency-based applied learning and that aligns with educational standards and expectations as defined in rule;

(3) "career cluster" means a grouping of occupations in industry sectors based on recognized commonalities that provide an organizing tool for developing instruction within the educational system;

(4) "career pathways" means a sub-grouping used as an organizing tool for curriculum design and instruction of occupations and career specialties that share a set of common knowledge and skills for career success;

(5) "final next-step plan" means a next-step plan that shows that the student has committed or intends to commit in the near future to a four-year college or university, a two-year college, a trade or vocational program, an internship or apprenticeship, military service or a job;

(6) "interim next-step plan" means an annual next-step plan in which the student specifies post-high-school goals and sets forth the coursework that will allow the student to achieve those goals; and

(7) "next-step plan" means an annual personal written plan of studies developed by a student in a public school or other state-supported school or institution in consultation with the student's parent and school counselor or other school official charged with coursework planning for the student that includes one or more of the following:

- (a) advanced placement or honors courses;
- (b) dual-credit courses offered in cooperation with an institution of higher education;
- (c) distance learning courses;
- (d) career-technical courses; and
- (e) pre-apprenticeship programs.

P. The secretary may establish a policy to provide for administrative interpretations to clarify curricular and testing provisions of the Public School Code."

Chapter 60 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 178, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 61

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING A SECTION OF THE PUBLIC HEALTH ACT AND ENACTING A NEW SECTION OF THE PUBLIC ASSISTANCE ACT TO REQUIRE MEDICAL ASSISTANCE REIMBURSEMENT FOR CRISIS TRIAGE CENTER SERVICES; ENACTING A TEMPORARY PROVISION TO REQUIRE DEPARTMENT OF HEALTH RULEMAKING.

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

Chapter 61 Section 1 Laws 2015

SECTION 1. Section 24-1-2 NMSA 1978 (being Laws 1973, Chapter 359, Section 2, as amended by Laws 2007, Chapter 325, Section 6 and by Laws 2007, Chapter 326, Section 1) is amended to read:

"24-1-2. DEFINITIONS.--As used in the Public Health Act:

A. "crisis triage center" means a health facility that:

- (1) is licensed by the department of health;
- (2) is not physically part of an inpatient hospital or included in a hospital's license; and
- (3) provides stabilization of behavioral health crises, including short-term residential stabilization;

B. "department" or "division" means the children, youth and families department as to child care centers, residential treatment centers that serve persons up to twenty-one years of age, community mental health centers that serve only persons up to twenty-one years of age, day treatment centers that serve persons up to twenty-

one years of age, shelter care homes and those outpatient facilities that are also community-based behavioral health facilities serving only persons up to twenty-one years of age and the department of health as to all other health facilities, unless otherwise designated;

C. "director" means the secretary;

D. "health facility" means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, crisis triage center, maternity home or shelter, adult daycare facility, nursing home, intermediate care facility, boarding home not under the control of an institution of higher learning, child care center, shelter care home, diagnostic and treatment center, rehabilitation center, infirmary, community mental health center that serves both children and adults or adults only, residential treatment center that serves persons up to twenty-one years of age, community mental health center that serves only persons up to twenty-one years of age and day treatment center that serves persons up to twenty-one years of age or a health service organization operating as a freestanding hospice or a home health agency. The designation of these entities as health facilities is only for the purposes of definition in the Public Health Act and does not imply that a freestanding hospice or a home health agency is considered a health facility for the purposes of other provisions of state or federal laws. "Health facility" also includes those facilities that, by federal regulation, must be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding. It does not include the offices and treatment rooms of licensed private practitioners;

E. "person", when used without further qualification, means an individual or any other form of entity recognized by law; and

F. "secretary" means the secretary of children, youth and families as to child care centers, residential treatment centers that serve persons up to twenty-one years of age, community mental health centers that serve only persons up to twenty-one years of age, day treatment centers that serve persons up to twenty-one years of age, shelter care homes and those outpatient facilities that are also community-based behavioral health facilities serving only persons up to twenty-one years of age and the secretary of health as to all other health facilities."

Chapter 61 Section 2 Laws 2015

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"CRISIS TRIAGE CENTER--MEDICAL ASSISTANCE REIMBURSEMENT.--

A. In accordance with federal law, the secretary shall adopt and promulgate rules to establish a reimbursement rate for services provided to recipients of state medical assistance at a crisis triage center.

B. As used in this section, "crisis triage center" means a health facility that:

(1) is licensed by the department of health;

(2) is not physically part of an inpatient hospital or included in a hospital's license; and

(3) provides stabilization of behavioral health crises, including short-term residential stabilization."

Chapter 61 Section 3 Laws 2015

SECTION 3. TEMPORARY PROVISION--CRISIS TRIAGE CENTERS--
DEPARTMENT OF HEALTH RULEMAKING.--By July 1, 2016, the department of health shall adopt and promulgate rules relating to the licensure of crisis triage centers pursuant to this act.

H AFC/House Bill 212

Approved April 7, 2015

LAWS 2015, CHAPTER 62

AN ACT

RELATING TO TAXATION; PROVIDING FOR THE ASSIGNMENT OF FILM
PRODUCTION TAX CREDITS.

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

Chapter 62 Section 1 Laws 2015

SECTION 1. A new section of the Film Production Tax Credit Act is enacted to read:

"ASSIGNMENT.--

A. A film production company that is eligible to receive a film production tax credit may assign the payment of an authorized film production tax credit to a third-party financial institution, or to an authorized third party, one time in a full or partial amount. If the parties to the assignment have complied with the procedures established by the taxation and revenue department for the assignment of a film production tax

credit payment, the department shall remit to the institution that amount of tax credit approved by the department that would otherwise be remitted to the company.

B. For the purposes of this section:

(1) "authorized third party" means an entity that:

(a) holds the rights to a film for which a film production tax credit may be claimed; and

(b) initiates that film's production; and

(2) "financial institution" means:

(a) a fund purposely created to produce a film; or

(b) a bank, savings institution or credit union that is organized or chartered pursuant to the laws of New Mexico or the United States and that files a New Mexico income tax return."

Chapter 62 Section 2 Laws 2015

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2015.

HBEC/House Bill 216

Approved April 7, 2015

LAWS 2015, CHAPTER 63

AN ACT

RELATING TO PUBLIC FINANCE; PROVIDING FOR INCREASED DISTRIBUTIONS TO THE SEVERANCE TAX PERMANENT FUND BY PHASING IN REDUCTIONS TO SEVERANCE TAX BONDING CAPACITY AND SUPPLEMENTAL SEVERANCE TAX BONDING CAPACITY; ADJUSTING THE PERCENTAGES OF SEVERANCE TAX BONDING CAPACITY ALLOCATED FOR TRIBAL INFRASTRUCTURE PROJECTS AND COLONIAS INFRASTRUCTURE PROJECTS.

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

Chapter 63 Section 1 Laws 2015

SECTION 1. Section 7-27-10.1 NMSA 1978 (being Laws 2003, Chapter 134, Section 1, as amended) is amended to read:

"7-27-10.1. BONDING CAPACITY--AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL INFRASTRUCTURE PROJECTS.--

A. By January 15 of each year, the division shall estimate the amount of bonding capacity available for severance tax bonds to be authorized by the legislature.

B. The division shall allocate ten percent of the estimated bonding capacity each year for water projects, and the legislature authorizes the state board of finance to issue severance tax bonds in the annually allocated amount for use by the water trust board to fund water projects statewide, except for projects authorized in Subsection F of this section. The water trust board shall certify to the state board of finance the need for issuance of bonds for water projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the water project fund in the New Mexico finance authority for the purposes certified by the water trust board to the state board of finance.

C. The division shall allocate the following percentages of the estimated bonding capacity for tribal infrastructure projects:

(1) in 2016, six and one-half percent; and

(2) in 2017 and each subsequent year, five and one-half percent.

D. The legislature authorizes the state board of finance to issue severance tax bonds in the amount allocated pursuant to this section for use by the tribal infrastructure board to fund tribal infrastructure projects. The tribal infrastructure board shall certify to the state board of finance the need for issuance of bonds for tribal infrastructure projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the tribal infrastructure project fund for the purposes certified by the tribal infrastructure board to the state board of finance.

E. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of severance tax bonds issued for a water project or a tribal infrastructure project shall revert to the severance tax bonding fund within six months of completion of the project.

The New Mexico finance authority shall monitor and ensure proper reversions of the bond proceeds appropriated for water projects, and the department of finance and administration shall monitor and ensure proper reversions of the bond proceeds appropriated for tribal infrastructure projects.

F. The division shall:

(1) void the authorization to the water project fund held at the New Mexico finance authority to make grants or loans of severance tax bond proceeds for projects pursuant to Subsection U of Section 1 of Chapter 41 of Laws 2006 for the northwest New Mexico council of governments in McKinley county for a water distribution project and Subsection 25 of Section 1 of Chapter 139 of Laws 2007 for the Navajo Nation division of natural resources department of water resources water management branch for a regional water project in Rio Arriba, Sandoval, McKinley, San Juan and Cibola counties; and

(2) authorize the department of environment to make a grant of the unexpended proceeds of severance tax bonds issued in fiscal years 2006 and 2007 for the purposes of the water project fund to be used for the authorizations identified in Paragraph (1) of this subsection and appropriate to the department of environment five million three hundred seventy-five thousand two hundred forty-four dollars (\$5,375,244) for the Navajo Nation division of natural resources department of water resources water management branch for a regional water distribution project in Rio Arriba, Sandoval, McKinley, San Juan and Cibola counties. Any unexpended balance of the funds authorized for expenditure in this section shall revert to the severance tax bonding fund at the end of fiscal year 2013 or upon completion of the project, whichever is earlier.

G. As used in this section:

(1) "division" means the board of finance division of the department of finance and administration;

(2) "tribal infrastructure project" means a qualified project under the Tribal Infrastructure Act; and

(3) "water project" means a capital outlay project for:

(a) the storage, conveyance or delivery of water to end users;

(b) the implementation of federal Endangered Species Act of 1973 collaborative programs;

(c) the restoration and management of watersheds;

(d) flood prevention; or

(e) conservation, recycling, treatment or reuse of water."

Chapter 63 Section 2 Laws 2015

SECTION 2. Section 7-27-12.5 NMSA 1978 (being Laws 2010, Chapter 10, Section 9) is amended to read:

"7-27-12.5. AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR INFRASTRUCTURE PROJECTS FOR COLONIAS.--

A. After the annual estimate of severance tax bonding capacity pursuant to Subsection A of Section 7-27-10.1 NMSA 1978, the board of finance division of the department of finance and administration shall allocate the following percentages of the estimated bonding capacity for colonias infrastructure projects:

(1) in 2016, six and one-half percent; and

(2) in 2017 and each subsequent year, five and one-half percent.

B. The legislature authorizes the state board of finance to issue severance tax bonds in the amount allocated pursuant to this section for use by the colonias infrastructure board to fund the projects. The colonias infrastructure board shall certify to the state board of finance the need for issuance of bonds for colonias infrastructure projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the colonias infrastructure project fund for the purposes certified by the colonias infrastructure board to the state board of finance.

C. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of severance tax bonds issued for a colonias infrastructure project shall revert to the severance tax bonding fund within six months of completion of the project. The colonias infrastructure board shall monitor and ensure proper reversions of the bond proceeds appropriated for the projects.

D. As used in this section, "colonias infrastructure project" means a qualified project under the Colonias Infrastructure Act."

Chapter 63 Section 3 Laws 2015

SECTION 3. Section 7-27-14 NMSA 1978 (being Laws 1961, Chapter 5, Section 11, as amended) is amended to read:

"7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

A. The legislature shall provide for the continued assessment, levy, collection and deposit into the severance tax bonding fund of the tax or taxes upon natural resource products severed and saved from the soil of the state that, together with such other income as may be deposited to the fund, will be sufficient to produce an amount that is at least the amount necessary to meet annual debt service charges on all outstanding severance tax bonds and supplemental severance tax bonds.

B. Except as otherwise specifically provided by law, the state board of finance shall issue no severance tax bonds unless the aggregate amount of severance tax bonds outstanding, and including the issue proposed, can be serviced with not more than the following percentages of the annual deposits into the severance tax bonding fund, as determined by the lesser of the deposits during the preceding fiscal year or the deposits during the current fiscal year as estimated by the division:

- (1) for fiscal year 2016, forty-nine and four-tenths percent;
- (2) for fiscal year 2017, forty-eight and eight-tenths percent;
- (3) for fiscal year 2018, forty-eight and two-tenths percent; and

(4) for fiscal year 2019 and subsequent fiscal years, forty-seven and six-tenths percent.

C. The state board of finance shall issue no supplemental severance tax bonds with a term that extends beyond the fiscal year in which the bonds are issued unless the aggregate amount of severance tax bonds and supplemental severance tax bonds outstanding, and including the issue proposed, can be serviced with not more than the following percentages of the annual deposits into the severance tax bonding fund, as determined by the lesser of the deposits during the preceding fiscal year or the deposits during the current fiscal year as estimated by the division:

- (1) for fiscal year 2016, sixty-one and nine-tenths percent;
- (2) for fiscal year 2017, sixty-one and three-tenths percent;
- (3) for fiscal year 2018, sixty and seven-tenths percent; and

(4) for fiscal year 2019 and subsequent fiscal years, sixty and one-tenth percent.

D. Except as otherwise specifically provided by law, the state board of finance may issue supplemental severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued if the debt service on such supplemental severance tax bonds when added to the debt service previously paid or scheduled to be

paid during that fiscal year on severance tax bonds and supplemental severance tax bonds does not exceed the following percentages of the lesser of the deposits into the severance tax bonding fund during the preceding fiscal year or the deposits into the severance tax bonding fund during the current fiscal year as estimated by the division:

- (1) for fiscal year 2016, ninety-four and four-tenths percent;
- (2) for fiscal year 2017, ninety-three and eight-tenths percent;
- (3) for fiscal year 2018, ninety-three and two-tenths percent;
- (4) for fiscal year 2019, ninety-one percent;
- (5) for fiscal year 2020, eighty-nine and four-tenths percent;
- (6) for fiscal year 2021, eighty-seven and eight-tenths percent; and
- (7) for fiscal year 2022 and subsequent fiscal years, eighty-six and two-tenths percent.

E. The provisions of this section shall not be modified by the terms of any severance tax bonds or supplemental severance tax bonds hereafter issued.

F. For the purposes of this section, "division" means the board of finance division of the department of finance and administration."

Chapter 63 Section 4 Laws 2015

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 236, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 64

AN ACT

RELATING TO UTILITIES; ALLOWING RENEWABLE ENERGY CERTIFICATES TO BE ISSUED FOR THE USE OF THERMAL ENERGY PRODUCED BY GEOTHERMAL ENERGY SOURCES; SETTING STANDARDS FOR MEASUREMENT OF THERMAL ENERGY AND GEOTHERMAL HEAT PUMPS; DEFINING "USEFUL THERMAL ENERGY".

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

Chapter 64 Section 1 Laws 2015

SECTION 1. Section 62-15-35 NMSA 1978 (being Laws 2007, Chapter 4, Section 2) is amended to read:

"62-15-35. RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.--
The public regulation commission shall establish:

A. a system of renewable energy certificates that can be used by a distribution cooperative to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a rural electric cooperative is located. The kilowatt-hour value of renewable energy certificates may be varied by renewable energy resource or technology; provided that:

(1) each renewable energy certificate shall have a minimum value of one kilowatt-hour for purposes of compliance with the renewable portfolio standard;

(2) three thousand four hundred twelve British thermal units of useful thermal energy is equivalent to one kilowatt-hour for purposes of compliance with the renewable portfolio standard; and

(3) the following equation shall be used to calculate the annual renewable energy certificate value for a geothermal heat pump system: $(\text{coefficient of performance of heat pump unit} - 1) \times (\text{ton rating of heat pump unit} / .9) = \text{number of megawatt-hours of renewable energy certificates}$; and

B. requirements and procedures concerning renewable energy certificates that include the provisions that:

(1) renewable energy certificates:

(a) are owned by the generator of the renewable energy unless: 1) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator; 2) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the distribution cooperative purchaser of the renewable energy unless retained by the generator through specific agreement with the distribution cooperative purchaser of the energy; or 3) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the renewable energy certificates are owned by the purchaser of the energy for the term of such contract;

(b) may be traded, sold or otherwise transferred by their owner to any other party; provided that the transfers and use of the certificate by a distribution cooperative for compliance with the renewable energy portfolio standard shall require the electric or useful thermal energy represented by the certificate to be contracted for delivery or consumed, or generated by an end-use customer of the distribution cooperative in New Mexico unless the commission determines that the distribution cooperative is participating in a national or regional market for exchanging renewable energy certificates;

(c) that are used for the purpose of meeting the renewable portfolio standard shall be registered, beginning January 1, 2008, with a renewable energy generation information system that is designed to create and track ownership of renewable energy certificates and that, through the use of independently audited generation data, verifies the generation and delivery of electricity or useful thermal energy associated with each renewable energy certificate and protects against multiple counting of the same renewable energy certificate;

(d) that are used once by a distribution cooperative to satisfy the renewable portfolio standard and are retired or that are traded, sold or otherwise transferred by the distribution cooperative shall not be further used by the distribution cooperative; and

(e) that are not used by a distribution cooperative to satisfy the renewable portfolio standard or that are not traded, sold or otherwise transferred by the distribution cooperative may be carried forward for up to four years from the date of issuance and, if not used by that time, shall be retired by the distribution cooperative; and

(2) a distribution cooperative shall be responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party."

Chapter 64 Section 2 Laws 2015

SECTION 2. Section 62-15-37 NMSA 1978 (being Laws 2007, Chapter 4, Section 4) is amended to read:

"62-15-37. DEFINITIONS--ENERGY EFFICIENCY--RENEWABLE ENERGY.--As used in the Rural Electric Cooperative Act:

A. "energy efficiency" means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity without reducing the amount or quality of energy services;

B. "renewable energy" means electric or useful thermal energy:

(1) generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and

(2) generated by use of renewable energy resources that may include:

(a) solar, wind and geothermal resources;

(b) hydropower facilities brought in service after July 1, 2007;

(c) fuel cells that are not fossil fueled; and

(d) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; but

(3) does not include electric energy generated by use of fossil fuel or nuclear energy; and

C. "useful thermal energy" means renewable energy delivered from a source that can be metered and that is delivered in the state to an end user in the form of direct heat, steam or hot water or other thermal form that is used for heating, cooling, humidity control, process use or other valid end-use energy requirements and for which fossil fuel or electricity would otherwise be consumed."

Chapter 64 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 263, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 65

AN ACT

RELATING TO HEALTH 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 ALLOW SYNCHRONIZATION OF PRESCRIPTIONS.

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

Chapter 65 Section 1 Laws 2015

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

"PHARMACY BENEFITS--PRESCRIPTION SYNCHRONIZATION.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a prescription drug benefit shall allow an enrollee to fill or refill a prescription for less than a thirty-day supply of the prescription drug, and apply a prorated daily copayment or coinsurance for the fill or refill, if:

(1) the prescribing practitioner or the pharmacist determines the fill or refill to be in the best interest of the patient;

(2) the patient requests or agrees to receive less than a thirty-day supply of the prescription drug; and

(3) the reduced fill or refill is made for the purpose of synchronizing the patient's prescription drug fills.

B. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a prescription drug benefit shall not:

(1) deny coverage for the filling of a chronic medication when the fill is made in accordance with a plan to synchronize multiple prescriptions for the enrollee pursuant to Subsection A of this section established among the group health plan, the prescribing practitioner and a pharmacist. The group health plan shall allow a pharmacy to override any denial indicating that a prescription is being refilled too soon for the purposes of medication synchronization; and

(2) prorate a dispensing fee to a pharmacy that fills a prescription with less than a thirty-day supply of prescription drug pursuant to Subsection A of this section. The group health plan shall pay in full a dispensing fee for a partially filled or refilled prescription for each prescription dispensed, regardless of any prorated copayment or coinsurance that the enrollee may pay for prescription synchronization services."

Chapter 65 Section 2 Laws 2015

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"MEDICAL ASSISTANCE--PHARMACY BENEFITS--PRESCRIPTION SYNCHRONIZATION.--

A. In accordance with federal law, the secretary shall adopt and promulgate rules that allow a recipient to fill or refill a prescription for less than a thirty-day supply of a prescription drug and apply a prorated daily copayment or coinsurance, if applicable, for the fill or refill, if:

(1) the prescribing practitioner or the pharmacist determines the fill or refill to be in the best in the best interest of the patient;

(2) the recipient requests or agrees to receive less than a thirty-day supply of the prescription drug; and

(3) the reduced fill or refill is made for the purpose of synchronizing the recipient's prescription drug fills.

B. Medical assistance coverage shall not:

(1) deny coverage for the filling of a chronic medication when the fill is made in accordance with a plan to synchronize multiple prescriptions for the recipient pursuant to Subsection A of this section established among the department or the recipient's managed care plan, the prescribing practitioner and a pharmacist. The medical assistance coverage shall allow a pharmacy to override any denial indicating that a prescription is being refilled too soon for the purposes of medication synchronization; and

(2) prorate a dispensing fee to a pharmacy that fills a prescription with less than a thirty-day supply of prescription drug pursuant to Subsection A of this section. The medical assistance coverage shall pay in full a dispensing fee for a partially filled or refilled prescription for each prescription dispensed, regardless of any prorated copayment or coinsurance that the recipient may pay for prescription synchronization services."

Chapter 65 Section 3 Laws 2015

SECTION 3. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"PHARMACY BENEFITS--PRESCRIPTION SYNCHRONIZATION.--

A. An individual health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state and that provides a prescription drug benefit shall allow an insured to fill or refill a prescription for less than a thirty-day supply of the prescription drug, and apply a prorated daily copayment or coinsurance for the fill or refill, if:

(1) the prescribing practitioner or the pharmacist determines the fill or refill to be in the best in the best interest of the insured;

(2) the insured requests or agrees to receive less than a thirty-day supply of the prescription drug; and

(3) the reduced fill or refill is made for the purpose of synchronizing the insured's prescription drug fills.

B. An individual health insurance policy, health care plan or certificate of health insurance that offers a prescription drug benefit shall not:

(1) deny coverage for the filling of a chronic medication when the fill is made in accordance with a plan to synchronize multiple prescriptions for the insured pursuant to Subsection A of this section established among the insurer, the prescribing practitioner and a pharmacist. The insurer shall allow a pharmacy to override any denial indicating that a prescription is being refilled too soon for the purposes of medication synchronization; and

(2) prorate a dispensing fee to a pharmacy that fills a prescription with less than a thirty-day supply of prescription drug pursuant to Subsection A of this section. The insurer shall pay in full a dispensing fee for a partially filled or refilled prescription for each prescription dispensed, regardless of any prorated copayment or coinsurance that the insured may pay for prescription synchronization services."

Chapter 65 Section 4 Laws 2015

SECTION 4. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"PHARMACY BENEFITS--PRESCRIPTION SYNCHRONIZATION.--

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 and that provides a prescription drug or device benefit shall allow an insured to fill or refill a prescription for less than a thirty-day supply of the prescription drug, and apply a prorated daily copayment or coinsurance for the fill or refill, if:

(1) the prescribing practitioner or the pharmacist determines the fill or refill to be in the best in the best interest of the insured;

(2) the insured requests or agrees to receive less than a thirty-day supply of the prescription drug; and

(3) the reduced fill or refill is made for the purpose of synchronizing the insured's prescription drug fills.

B. 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 and that provides a prescription drug or device benefit shall not:

(1) deny coverage for the filling of a chronic medication when the fill is made in accordance with a plan to synchronize multiple prescriptions for the insured pursuant to Subsection A of this section established among the insurer, the prescribing practitioner and a pharmacist. The insurer shall allow a pharmacy to override any denial indicating that a prescription is being refilled too soon for the purposes of medication synchronization; and

(2) prorate a dispensing fee to a pharmacy that fills a prescription with less than a thirty-day supply of prescription drug pursuant to Subsection A of this section. The insurer shall pay in full a dispensing fee for a partially filled or refilled prescription for each prescription dispensed, regardless of any pro-rated copayment or coinsurance that the insured may pay for prescription synchronization services."

Chapter 65 Section 5 Laws 2015

SECTION 5. A new section of the Health Maintenance Organization Law is enacted to read:

" PHARMACY BENEFITS--PRESCRIPTION SYNCHRONIZATION.--

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state and that provides prescription drug benefits shall allow an enrollee to fill or refill a prescription for less than a thirty-day supply of the prescription drug, and apply a prorated daily copayment or coinsurance for the fill or refill, if:

(1) the prescribing practitioner or the pharmacist determines the fill or refill to be in the best interest of the enrollee;

(2) the enrollee requests or agrees to receive less than a thirty-day supply of the prescription drug; and

(3) the reduced fill or refill is made for the purpose of synchronizing the enrollee's prescription drug fills.

B. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state and that provides prescription drug benefits shall not:

(1) deny coverage for the filling of a chronic medication when the fill is made in accordance with a plan to synchronize multiple prescriptions for the enrollee pursuant to Subsection A of this section established among the health maintenance

organization, the prescribing practitioner and a pharmacist. The health maintenance organization shall allow a pharmacy to override any denial indicating that a prescription is being refilled too soon for the purposes of medication synchronization; and

(2) prorate a dispensing fee to a pharmacy that fills a prescription with less than a thirty-day supply of prescription drug pursuant to Subsection A of this section. The health maintenance organization shall pay in full a dispensing fee for a partially filled or refilled prescription for each prescription dispensed, regardless of any prorated copayment or coinsurance that the enrollee may pay for prescription synchronization services."

Chapter 65 Section 6 Laws 2015

SECTION 6. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"PHARMACY BENEFIT--PRESCRIPTION SYNCHRONIZATION.--

A. An individual or group health care plan that is delivered, issued for delivery or renewed in this state and that provides a prescription drug benefit shall allow a subscriber to fill or refill a prescription for less than a thirty-day supply of the prescription drug, and apply a prorated daily copayment or coinsurance for the fill or refill, if:

(1) the prescribing practitioner or the pharmacist determines the fill or refill to be in the best in the best interest of the subscriber;

(2) the subscriber requests or agrees to receive less than a thirty-day supply of the prescription drug; and

(3) the reduced fill or refill is made for the purpose of synchronizing the subscriber's prescription drug fills.

B. An individual or group health care plan that is delivered, issued for delivery or renewed in this state and that provides a prescription drug benefit shall not:

(1) deny coverage for the filling of a chronic medication when the fill is made in accordance with a plan to synchronize multiple prescriptions for the subscriber pursuant to Subsection A of this section established among the health care plan, the prescribing practitioner and a pharmacist. The health care plan shall allow a pharmacy to override any denial indicating that a prescription is being refilled too soon for the purposes of medication synchronization; and

(2) prorate a dispensing fee to a pharmacy that fills a prescription with less than a thirty-day supply of prescription drug pursuant to Subsection A of this section. The health care plan shall pay in full a dispensing fee for a partially filled or

refilled prescription for each prescription dispensed, regardless of any prorated copayment or coinsurance that the subscriber may pay for prescription synchronization services."

House Bill 274, w/cc

Approved April 7, 2015

LAWS 2015, CHAPTER 66

AN ACT

RELATING TO CORPORATIONS; MODIFYING CERTAIN APPLICATION AND FILING REQUIREMENTS; ADJUSTING FEES FOR COPYING SERVICES PROVIDED BY THE SECRETARY OF STATE; IMPOSING A FEE FOR CREDIT AND DEBIT CARD PAYMENTS TO THE SECRETARY; SUSPENDING FILING PRIVILEGES FOR ENTITIES LIABLE FOR PAYMENTS TO THE SECRETARY; MAKING AN APPROPRIATION.

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

Chapter 66 Section 1 Laws 2015

SECTION 1. Section 53-2-1 NMSA 1978 (being Laws 1975, Chapter 65, Section 1, as amended) is amended to read:

"53-2-1. FEES OF SECRETARY OF STATE.--

A. For filing documents and issuing certificates, the secretary of state shall charge and collect for:

(1) filing articles of incorporation and issuing a certificate of incorporation, a fee of one dollar (\$1.00) for each one thousand shares of the total amount of authorized shares, but in no case less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000);

(2) filing articles of amendment and issuing a certificate of amendment increasing the total amount of authorized shares or filing restated articles of incorporation and issuing a restated certificate of incorporation increasing the total amount of authorized shares, a fee equal to the difference between the fee computed at the rate set forth in Paragraph (1) of this subsection upon the total amount of authorized shares, including the proposed increase, and the fee computed at the rate set forth in Paragraph (1) of this subsection upon the total amount of authorized shares, excluding

the proposed increase, but in no case less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000);

(3) filing articles of amendment and issuing a certificate of amendment not involving an increase in the total amount of authorized shares or filing restated articles of incorporation and issuing a restated certificate of incorporation not involving an increase in the total amount of authorized shares, a fee of one hundred dollars (\$100);

(4) filing articles of merger, consolidation or exchange and issuing a certificate of merger or consolidation or exchange, a fee equal to the difference between the fee computed at the rate set forth in Paragraph (1) of this subsection upon the total amount of authorized shares in the articles of merger or consolidation in excess of the total amount of authorized shares of the corporations merged or consolidated or upon the amount of the shares exchanged, but in no case less than two hundred dollars (\$200) or more than one thousand dollars (\$1,000);

(5) filing an application to reserve a corporate name or filing a notice of transfer of a reserved corporate name, a fee of twenty-five dollars (\$25.00);

(6) filing a statement of a change of address of the registered office or change of the registered agent, or both, a fee of twenty-five dollars (\$25.00);

(7) filing an agent's statement of change of address of registered agent, a fee of twenty-five dollars (\$25.00);

(8) filing a statement of the establishment of a series of shares, a fee of one hundred dollars (\$100);

(9) filing a statement of reduction of authorized shares, a fee of one hundred dollars (\$100);

(10) filing a statement of intent to dissolve, a statement of revocation of voluntary dissolution proceedings or articles of dissolution, a fee of fifty dollars (\$50.00);

(11) filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, a fee of fifty dollars (\$50.00);

(12) filing a copy of articles of merger or conversion of a foreign corporation holding a certificate of authority to transact business in this state not increasing the total amount of authorized shares, a fee of two hundred dollars (\$200);

(13) filing an application for a certificate of authority of a foreign corporation and issuing to it a certificate of authority, a fee of one dollar (\$1.00) for each

one thousand shares of the total number of authorized shares represented in this state, but in no case less than two hundred dollars (\$200) or more than one thousand dollars (\$1,000);

(14) filing articles of merger or consolidation increasing the total amount of authorized shares that the surviving or new corporation is authorized to issue in excess of the aggregate number of shares that the merging or consolidating domestic and foreign corporations authorized to transact business in this state had authority to issue, a fee of one dollar (\$1.00) for each one thousand shares of the increase in the total amount of authorized shares represented in this state, but in no case less than two hundred dollars (\$200) or more than one thousand dollars (\$1,000);

(15) filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, a fee of fifty dollars (\$50.00);

(16) filing a corporate report and filing a supplemental report, a fee of twenty-five dollars (\$25.00);

(17) filing any other statement, corrected document or report of a domestic or foreign corporation, a fee of twenty-five dollars (\$25.00);

(18) issuing a certificate of good standing and compliance, a fee of fifty dollars (\$50.00); and

(19) issuing a letter of reinstatement of a domestic or foreign corporation, a fee of two hundred dollars (\$200).

B. The secretary of state shall also charge and collect for furnishing copies of any document, instrument or paper relating to a corporation a fee of:

(1) ten dollars (\$10.00) for an uncertified copy of documents, instruments or papers; and

(2) twenty-five dollars (\$25.00) for a certified copy of documents, instruments or papers.

C. As used in this section:

(1) "total amount of authorized shares" means all shares of stock that the corporation is authorized to issue; and

(2) "number of authorized shares represented in this state" means the proportion of a corporation's total amount of authorized shares that the sum of the value of its property located in this state and the gross amount of business transacted by it or from places of business in this state bears to the sum of the value of all of its property, wherever located, and the gross amount of its business, wherever transacted,

as determined from information contained in its application for a certificate of authority to transact business in this state.

D. The secretary of state shall also charge and collect fees, according to a fee schedule approved by the department of finance and administration, for the provision of services requested by persons, agencies and entities dealing with the secretary.

E. The secretary of state may adopt rules establishing reasonable fees for the following services rendered in connection with a service required or permitted to be rendered pursuant to a provision of Chapter 53 NMSA 1978:

(1) an expedited service;

(2) the handling of checks, drafts, credit or debit cards or other means of payment upon adoption of rules authorizing their use, for which sufficient funds are not on deposit; and

(3) the handling of credit cards and debit cards.

F. Amounts collected for the handling of credit cards and debit cards are appropriated to the secretary of state for the purpose of defraying the expense of providing the service. At the end of a fiscal year, those amounts shall not revert to the general fund."

Chapter 66 Section 2 Laws 2015

SECTION 2. Section 53-2-3 NMSA 1978 (being Laws 1905, Chapter 79, Section 120, as amended) is amended to read:

"53-2-3. DISPOSITION OF FEES.--Except as otherwise provided by law, the secretary of state shall turn over to the state treasurer the fees collected under the provisions of Chapter 53, Article 2 NMSA 1978 in the manner required by law. The secretary is not responsible for a fraudulent or worthless check, draft, warrant, order or other means of payment accepted in good faith for the payment of a fee or on behalf of a corporation, but the secretary may deduct the fee from money held to be paid into the state treasury. If a fraudulent or worthless check, draft, warrant or order is not made good immediately, it is the duty of the attorney general, as soon as the facts are made known to the attorney general, to institute suit against the corporation and, if sent by the incorporators, its incorporators in the name of the state for the recovery of the amount of the check, draft, warrant, order or other means of payment, and protest fees and costs of the action shall be assessed against the defendant."

Chapter 66 Section 3 Laws 2015

SECTION 3. Section 53-2-3.1 NMSA 1978 (being Laws 1979, Chapter 179, Section 1, as amended) is amended to read:

"53-2-3.1. FEES OF SECRETARY OF STATE--DISHONORED CHECK--CIVIL PENALTY--SUSPENSION OF FUTURE FILINGS.--

A. In addition to any penalties, fees or costs incurred pursuant to the provisions of Section 53-2-3 NMSA 1978, any person who pays a fee, tax, penalty or interest by check to the secretary of state and which check is dishonored upon presentation is liable to the secretary for such fee, tax, penalty or interest, together with a civil penalty of twenty dollars (\$20.00) for each such check.

B. The secretary of state shall not accept for filing any document, instrument or paper from a person that is liable to the secretary for a fee, tax, penalty, interest or civil penalty until the liability is discharged."

Chapter 66 Section 4 Laws 2015

SECTION 4. Section 53-5-7 NMSA 1978 (being Laws 1959, Chapter 181, Section 7, as amended) is amended to read:

"53-5-7. FAILURE TO FILE CORPORATE REPORTS--PENALTY.--

A. A domestic corporation required to file an annual corporate report, as provided in the Corporate Reports Act, that fails to submit the report within the time prescribed for a reporting period shall incur a civil penalty of two hundred dollars (\$200) in addition to the fee for filing the report, such civil penalty to be paid upon filing the report. Sixty days after written notice of failure to file a report has been mailed to the corporation's mailing address as shown in the last corporate report filed with the secretary of state, the corporation shall have its certificate of incorporation canceled by the secretary without further proceedings, unless the report is filed and all fees and penalties are paid within that sixty-day period.

B. A foreign corporation required to file an annual corporate report that fails to submit the report within the time prescribed for any reporting period shall incur a civil penalty of two hundred dollars (\$200) in addition to the fee for filing the report. The civil penalty shall be paid upon filing the report. Sixty days after written notice of failure to file a report has been mailed to the corporation's mailing address as shown in the last corporate report filed with the secretary of state, the corporation shall have its certificate of authority to do business in this state canceled by the secretary without further proceedings, unless the report is filed and all fees and penalties are paid within that sixty-day period. Nothing in this section authorizes a forfeiture of the right or privilege of engaging in interstate commerce.

C. A domestic or foreign corporation not exempted from filing a supplemental report, as provided in the Corporate Reports Act, that fails to submit the

required report within the time prescribed for a reporting period shall incur a civil penalty of two hundred dollars (\$200) in addition to the fee for filing the report, such civil penalty to be paid upon filing the report.

D. An order of the secretary of state may be appealed to the district court of Santa Fe county within sixty days of the date it was issued by the secretary.

E. If a report required under the Corporate Reports Act is mailed, the secretary of state shall deem the date shown on the postmark the date of submission when determining whether a filing is timely."

Chapter 66 Section 5 Laws 2015

SECTION 5. Section 53-8-69 NMSA 1978 (being Laws 1975, Chapter 217, Section 69, as amended) is amended to read:

"53-8-69. FILING OF APPLICATION FOR CERTIFICATE OF AUTHORITY.--

A. The following documents shall be delivered to the secretary of state:

(1) an original of the application of the corporation for a certificate of authority and a certificate of good standing and compliance issued by the appropriate official of the state or country under the laws of which the corporation is incorporated that is current within thirty days and that has not expired by the time of receipt by the secretary;

(2) a statement executed by the designated registered agent in which the agent acknowledges acceptance of the appointment by the filing corporation as its registered agent, if the agent is an individual, or a statement executed by an authorized officer of a corporation that is the designated registered agent, in which the officer acknowledges the corporation's acceptance of the appointment by the filing corporation as its registered agent, if the agent is a corporation; and

(3) a copy of whichever statement is filed pursuant to Paragraph (2) of this subsection, which may be a photocopy of the original after it was signed or a photocopy that is conformed to the original.

B. If the secretary of state finds that the application and the affidavit conform to law, the secretary shall, when all fees have been paid as prescribed in the Nonprofit Corporation Act:

(1) endorse on the original and copy the word "filed" and the month, day and year of the filing thereof;

(2) file in the office of the secretary the original of the application and the statement; and

(3) issue a certificate of authority to conduct affairs in New Mexico to which shall be affixed the application copy.

C. The certificate of authority, together with the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative."

Chapter 66 Section 6 Laws 2015

SECTION 6. Section 53-8-82 NMSA 1978 (being Laws 1975, Chapter 217, Section 82, as amended) is amended to read:

"53-8-82. ANNUAL REPORT.--

A. Each domestic corporation and each foreign corporation authorized to conduct affairs in New Mexico shall file, within the time prescribed by the Nonprofit Corporation Act, on forms prescribed and furnished by the secretary of state to the corporation not less than thirty days prior to the date such report is due, an annual report setting forth:

(1) the name of the corporation and the state or country under the laws of which it is incorporated;

(2) the address of the registered office of the corporation in New Mexico and the name of its registered agent in New Mexico at such address and, in the case of a foreign corporation, the address of its registered office in the state or country under the laws of which it is incorporated and the address of the principal office of the corporation if different from the address of the registered office;

(3) a brief statement of the character of the affairs that the corporation is actually conducting or, in the case of a foreign corporation, that the corporation is actually conducting in New Mexico; and

(4) the names and respective addresses of every director and every officer of the corporation.

B. The report shall be signed and sworn to by any two of the corporation's directors or officers. If the corporation is in the hands of a receiver or trustee, the report shall be executed on behalf of the corporation by the receiver or trustee. A copy of the report shall be maintained at the corporation's principal place of business as contained in the report and shall be made available to the general public for inspection during regular business hours."

Chapter 66 Section 7 Laws 2015

SECTION 7. Section 53-8-83 NMSA 1978 (being Laws 1975, Chapter 217, Section 83, as amended) is amended to read:

"53-8-83. FILING OF ANNUAL REPORT--INITIAL REPORT--SUPPLEMENTAL REPORT--EXTENSION OF TIME.--

A. The annual report of a domestic or foreign corporation shall be delivered to the secretary of state on or before the fifteenth day of the fifth month following the end of its taxable year, except that the first annual report of a domestic or foreign corporation shall be filed within thirty days after the date on which its certificate of incorporation or its certificate of authority was issued by the secretary.

B. A supplemental report shall be filed with the secretary of state within thirty days if, after the filing of the annual report required under the Nonprofit Corporation Act, a change is made in:

(1) the name of the corporation;

(2) the mailing address, street address or the geographical location of the corporation's registered office in New Mexico and the name of the agent upon whom process against the corporation may be served;

(3) the name or address of any of the directors or officers of the corporation or the date when the term of office of each expires, in which case the names, addresses and dates of term expiration of every director and officer shall be reported; or

(4) the corporation's principal place of business within or without New Mexico.

C. Proof to the satisfaction of the secretary of state that, prior to the due date of any report required by Subsection A or B of this section, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed compliance with the requirements of this section. If the secretary finds that the report conforms to the requirements of the Nonprofit Corporation Act, the secretary shall file the same. If the secretary finds that it does not so conform, the secretary shall promptly return the report to the corporation for any necessary corrections, in which event the penalties prescribed for failure to file the report within the time provided shall not apply, if the report is corrected to conform to the requirements of the Nonprofit Corporation Act and returned to the secretary within thirty days after the date on which it was mailed to the corporation by the secretary.

D. Upon application by a corporation and for good cause shown, the secretary of state may extend, for no more than a total of twelve months, the date on which a return required by the provisions of the Nonprofit Corporation Act must be filed or the date on which the payment of any fee is required, but no extension shall prevent the accrual of interest as otherwise provided by law. The secretary shall, when an extension of time has been granted a nonprofit corporation under the federal Internal Revenue Code of 1986 for the time in which to file a return, grant the corporation the

same extension of time to file the required return and to pay the required fees if a copy of the approved federal extension of time is provided to the secretary for filing prior to the filing of the corporation's report. An extension shall not prevent the accrual of interest as otherwise provided by law.

E. Nothing in this section prevents the collection of a fee or penalty due upon the failure of any corporation to submit the required report.

F. No annual or supplemental report required to be filed pursuant to the provisions of this section shall be deemed to have been filed if the fees accompanying the report have been paid by check and the check is dishonored upon presentation."

Chapter 66 Section 8 Laws 2015

SECTION 8. Section 53-8-85 NMSA 1978 (being Laws 1975, Chapter 217, Section 85, as amended) is amended to read:

"53-8-85. FEES FOR FILING DOCUMENTS AND ISSUING CERTIFICATES.--
The secretary of state shall charge and collect for:

A. filing articles of incorporation and issuing a certificate of incorporation, twenty-five dollars (\$25.00);

B. filing articles of amendment and issuing a certificate of amendment, twenty dollars (\$20.00);

C. filing restated articles of incorporation and issuing a restated certificate of incorporation, twenty dollars (\$20.00);

D. filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty dollars (\$20.00);

E. filing a statement of change of address of registered office or change of registered agent, or both, ten dollars (\$10.00);

F. filing an agent's statement of change of address of registered agent, ten dollars (\$10.00);

G. filing articles of dissolution, ten dollars (\$10.00);

H. filing an application of a foreign corporation for a certificate of authority to conduct affairs in New Mexico and issuing a certificate of authority, twenty-five dollars (\$25.00);

I. filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in New Mexico and issuing an amended certificate of authority, twenty dollars (\$20.00);

J. filing an application to reserve a corporation name or filing a notice to transfer of a reserved corporate name, ten dollars (\$10.00);

K. filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in New Mexico, twenty-five dollars (\$25.00);

L. filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, ten dollars (\$10.00);

M. filing any other statement or report, including an annual report, of a domestic or foreign corporation, ten dollars (\$10.00);

N. issuing a certificate of good standing and compliance, ten dollars (\$10.00); and

O. issuing a letter or reinstatement of a domestic or foreign corporation, twenty-five dollars (\$25.00)."

Chapter 66 Section 9 Laws 2015

SECTION 9. Section 53-8-86.1 NMSA 1978 (being Laws 1979, Chapter 180, Section 3, as amended) is amended to read:

"53-8-86.1. FEES OF SECRETARY OF STATE--DISHONORED CHECK--CIVIL PENALTY--SUSPENSION OF FILING.--

A. Any person or corporation that pays a fee by check to the secretary of state, which check is dishonored upon presentation, is liable to the secretary for such fees together with a civil penalty of twenty dollars (\$20.00) for each such check.

B. The secretary of state shall not accept for filing any document, instrument or paper from a person or corporation that is liable to the secretary for a fee, tax, penalty or interest until that liability is discharged."

Chapter 66 Section 10 Laws 2015

SECTION 10. Section 53-8-87 NMSA 1978 (being Laws 1975, Chapter 217, Section 86, as amended) is amended to read:

"53-8-87. MISCELLANEOUS CHARGES.--The secretary of state shall charge and collect for furnishing a copy of any document, instrument or paper relating to a

corporation, five dollars (\$5.00). In addition, if certifying the document, ten dollars (\$10.00) shall be paid for the certificate and affixing the seal thereto."

Chapter 66 Section 11 Laws 2015

SECTION 11. Section 53-19-63 NMSA 1978 (being Laws 1993, Chapter 280, Section 63, as amended) is amended to read:

"53-19-63. FILING, SERVICE AND COPYING FEES.--The secretary of state shall charge and collect:

A. for filing the original articles of organization and issuing a certificate of organization, fifty dollars (\$50.00);

B. for filing amended or restated articles of merger and issuing a certificate of amended or restated articles, fifty dollars (\$50.00);

C. for filing articles of merger, conversion or consolidation and issuing a certificate of consolidation, one hundred dollars (\$100);

D. for filing articles of dissolution or revocation of dissolution, twenty-five dollars (\$25.00);

E. for issuing a certificate for any purpose not otherwise specified, twenty-five dollars (\$25.00);

F. for furnishing written information on any limited liability company, twenty-five dollars (\$25.00);

G. for providing from the secretary's records any document or instrument, ten dollars (\$10.00), and twenty-five dollars (\$25.00) for certification of documents or instruments;

H. for accepting an application for reservation of a name or for filing a notice of the transfer of any name reservation, twenty dollars (\$20.00);

I. for filing a statement of change of address of registered office or registered agent, or both, twenty dollars (\$20.00);

J. for filing an agent's statement of change of address of registered agent, twenty dollars (\$20.00);

K. for issuing a registration to a foreign limited liability company, one hundred dollars (\$100);

L. for filing an amendment of the registration of a foreign limited liability company, fifty dollars (\$50.00); and

M. for filing an application for cancellation of registration of a foreign limited liability company and issuing a certificate of cancellation, twenty-five dollars (\$25.00)."

Chapter 66 Section 12 Laws 2015

SECTION 12. Section 53-20-1 NMSA 1978 (being Laws 2001, Chapter 200, Section 83) is amended to read:

"53-20-1. SHORT TITLE.--Chapter 53, Article 20 NMSA 1978 may be cited as the "Foreign Business Trust Registration Act"."

Chapter 66 Section 13 Laws 2015

SECTION 13. Section 53-20-6 NMSA 1978 (being Laws 2001, Chapter 200, Section 88, as amended) is amended to read:

"53-20-6. APPLICATION FOR CERTIFICATE OF AUTHORITY.--

A. A foreign business trust, in order to obtain a certificate of authority to transact business in New Mexico, shall make application to the secretary of state. The application shall set forth:

(1) the name of the foreign business trust and, if different, the name under which it proposes to transact business in New Mexico;

(2) the date of declaration of trust;

(3) the address of the principal office of the foreign business trust in the state or country under the laws of which it is organized;

(4) the address of the registered office of the foreign business trust in New Mexico, the name of its registered agent in New Mexico at that address and an acceptance of the appointment signed by the agent appointed; and

(5) the purposes of the foreign business trust that it proposes to pursue in the transaction of business in New Mexico.

B. The application shall be made on forms prescribed and furnished by the secretary of state or on forms containing substantially the same information as forms prescribed by the secretary and shall be executed by a person with authority to do so under the laws of the state or jurisdiction of its formation.

C. A foreign business trust shall deliver with the completed application a certificate of good standing and compliance issued by the appropriate official of the state or country having custody of trust records under the laws of which the trust is created, that is current within thirty days and that has not expired by the time of receipt by the secretary."

Chapter 66 Section 14 Laws 2015

SECTION 14. Section 53-20-17 NMSA 1978 (being Laws 2001, Chapter 200, Section 99, as amended) is amended to read:

"53-20-17. FEES.--The secretary of state shall charge and collect from a foreign business trust for:

A. filing a statement of change of address of registered office or change of registered agent, or both, twenty-five dollars (\$25.00);

B. filing an application of a foreign business trust for a certificate of authority to transact business in this state and issuing a certificate of authority, two hundred fifty dollars (\$250);

C. filing an agent's statement of change of address of registered agent, twenty-five dollars (\$25.00);

D. filing a certificate of correction or amendment of a foreign business trust authorized to transact business in this state, fifty dollars (\$50.00);

E. filing an application for withdrawal of a foreign business trust and issuing a certificate of withdrawal, twenty-five dollars (\$25.00);

F. filing any other statement of a foreign business trust, twenty-five dollars (\$25.00);

G. for furnishing a copy of any document, instrument or paper relating to a foreign business trust, ten dollars (\$10.00); and

H. for furnishing a certified copy of any documents, instruments or papers relating to a foreign business trust, twenty-five dollars (\$25.00)."

Chapter 66 Section 15 Laws 2015

SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 287

Approved April 7, 2015

LAWS 2015, CHAPTER 67

AN ACT

RELATING TO VOLUNTEER FIREFIGHTERS RETIREMENT; LIMITING THE TIME PERIOD FOR POSTING OR ADJUSTING SERVICE CREDIT.

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

Chapter 67 Section 1 Laws 2015

SECTION 1. Section 10-11A-6 NMSA 1978 (being Laws 1983, Chapter 263, Section 6, as amended) is amended to read:

"10-11A-6. DETERMINATION OF SERVICE CREDIT.--

A. A member may claim one year of service credit for each year in which a fire department certifies that the member:

(1) attended fifty percent of all scheduled fire drills for which the fire department held the member responsible to attend;

(2) attended fifty percent of all scheduled business meetings for which the fire department held the member responsible to attend; and

(3) participated in at least fifty percent of all emergency response calls for which the fire department held the member responsible to attend.

B. The chief of each fire department shall submit to the association by March 31 of each year documentation of the qualifications of each member for the preceding calendar year; provided that the chief shall:

(1) submit the documentation on forms provided by the association;

(2) acknowledge the truth of the records under oath before a notary public; and

(3) have the notarized forms signed by the mayor, if distributions from the fire protection fund for the fire department are made to an incorporated municipality, or the chair of the county commission, if distributions from the fire protection fund for the fire department are made to a county fire district.

C. For service credit that has been earned, but not credited pursuant to Subsection B of this section, a member may post or adjust service credit earned for not more than the two preceding calendar years; provided that the member shall:

(1) file with the association a completed "Corrected Qualification Record" or "Adjusted Qualification Record" as prescribed by the board;

(2) acknowledge the truth of the records under oath before a notary public; and

(3) have the notarized forms signed by the mayor, if distributions from the fire protection fund for the fire department are made to an incorporated municipality, or the chair of the county commission, if distributions from the fire protection fund for the fire department are made to a county fire district.

D. The association may request the fire marshal division of the public regulation commission to verify member qualifications submitted to the association."

Chapter 67 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2016.

Senate Bill 4

Approved April 7, 2015

LAWS 2015, CHAPTER 68

AN ACT

RELATING TO PUBLIC SCHOOLS; MAKING LOCALLY CHARTERED AND STATE-CHARTERED CHARTER SCHOOLS ELIGIBLE TO RECEIVE A PRORATED SHARE OF EDUCATION TECHNOLOGY EQUIPMENT PURCHASED BY A SCHOOL DISTRICT THROUGH A LEASE-PURCHASE ARRANGEMENT UNDER PROVISIONS OF THE EDUCATION TECHNOLOGY EQUIPMENT ACT; ALLOWING LOCAL SCHOOL BOARDS TO SUBMIT TO LOCAL VOTERS THE QUESTION OF CREATING DEBT; REQUIRING LOCAL SCHOOL BOARDS TO ABIDE BY THE MAJORITY VOTE ON THE QUESTION.

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

Chapter 68 Section 1 Laws 2015

SECTION 1. Section 6-15A-1 NMSA 1978 (being Laws 1997, Chapter 193, Section 1) is amended to read:

"6-15A-1. SHORT TITLE.--Chapter 6, Article 15A NMSA 1978 may be cited as the "Education Technology Equipment Act"."

Chapter 68 Section 2 Laws 2015

SECTION 2. Section 6-15A-3 NMSA 1978 (being Laws 1997, Chapter 193, Section 3, as amended) is amended to read:

"6-15A-3. DEFINITIONS.--As used in the Education Technology Equipment Act:

A. "debt" means an obligation payable from ad valorem property tax revenues or the general fund of a school district and that may be secured by the full faith and credit of a school district and a pledge of its taxing powers;

B. "department" means the public education department;

C. "education technology equipment" means tools used in the educational process that constitute learning and administrative resources and may include:

(1) closed-circuit television systems; educational television and radio broadcasting; cable television, satellite, copper and fiber-optic transmission; computer, network connection devices; digital communications equipment (voice, video and data); servers; switches; portable media such as discs and drives to contain data for electronic storage and playback; and purchase or lease of software licenses or other technologies and services, maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in schools and related facilities;

(2) improvements, alterations and modifications to, or expansions of, existing buildings or personal property necessary or advisable to house or otherwise accommodate any of the tools listed in Paragraph (1) of this subsection; and

(3) expenditures for technical support and training expenses of school district employees who administer education technology projects funded by a lease-purchase arrangement and may include training by contractors;

D. "eligible charter school" means a locally chartered or state-chartered charter school located within the geographic boundaries of a school district:

(1) that timely provides the information necessary to identify the lease-purchase education technology equipment needed in the charter school to be included in the local school board resolution for lease-purchase of education technology equipment; and

(2) for which the proposed lease-purchase of education technology equipment is included in the school district's approved technology master plan;

E. "lease-purchase arrangement" means a financing arrangement constituting debt of a school district pursuant to which periodic lease payments composed of principal and interest components are to be paid to the holder of the lease-purchase arrangement and pursuant to which the owner of the education technology equipment may retain title to or a security interest in the equipment and may agree to release the security interest or transfer title to the equipment to the school district for nominal consideration after payment of the final periodic lease payment. "Lease-purchase arrangement" also means any debt of the school district incurred for the purpose of acquiring education technology equipment pursuant to the Education Technology Equipment Act whether designated as a general obligation lease, note or other instrument evidencing a debt of the school district;

F. "local school board" means the governing body of a school district; and

G. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes."

Chapter 68 Section 3 Laws 2015

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

"CHARTER SCHOOLS--RECEIPT OF EDUCATION TECHNOLOGY EQUIPMENT.--On or after July 1, 2015, a school district that assumes a debt through a lease-purchase arrangement under the provisions of the Education Technology Equipment Act shall provide, to each eligible charter school in the school district, education technology equipment equal in value to an amount based upon the net proceeds from the debt after payment of the cost of issuing the debt through a lease-purchase arrangement prorated by the number of students enrolled in the school district and in eligible charter schools as reported on the first reporting date of the prior school year; provided that, in the case of an approved eligible charter school that had not commenced classroom instruction in the prior school year, the estimated full-time-equivalent enrollment in the first year of instruction, as shown in the approved charter school application, shall be used to determine the amount, subject to adjustment after the first reporting date."

Chapter 68 Section 4 Laws 2015

SECTION 4. Section 6-15A-14 NMSA 1978 (being Laws 1997, Chapter 193, Section 14) is amended to read:

"6-15A-14. CUMULATIVE AND COMPLETE AUTHORITY.--The Education Technology Equipment Act shall be deemed to provide an additional and alternative method for acquiring education technology equipment and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as a derogation of any powers now existing. The Education Technology Equipment Act shall be deemed to provide complete authority for acquiring education technology equipment and entering into lease-purchase arrangements. No other approval of any state agency or officer, except as provided in that act, shall be required with respect to any lease-purchase arrangements, and the local school board acting pursuant to provisions of that act need not comply with the requirements of any other law applicable to the issuance of debt by school districts; provided, however, that a local school board may submit to a vote of qualified electors of the school district the question of creating debt by entering into a lease-purchase arrangement; and provided further that the local school board shall abide by the vote of the majority of those persons voting on the question."

Chapter 68 Section 5 Laws 2015

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SFC/Senate Bill 8

Approved April 7, 2016

LAWS 2015, CHAPTER 69

AN ACT

RELATING TO HOUSING; AMENDING AND ENACTING SECTIONS OF THE AFFORDABLE HOUSING ACT; ADDING AND CLARIFYING DEFINITIONS; CHANGING LONG-TERM AFFORDABILITY REQUIREMENTS FOR CERTAIN PROJECTS; PROVIDING FOR RULES FOR HOUSING ASSISTANCE GRANTS BY THE NEW MEXICO MORTGAGE FINANCE AUTHORITY AND OTHER STATE AGENCIES AND INSTRUMENTALITIES; PROVIDING FOR RULES FOR THE TIMELY SALE OF CERTAIN PROJECTS; PROVIDING FOR ENFORCEMENT OF THE AFFORDABLE HOUSING ACT; PROVIDING PENALTIES.

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

Chapter 69 Section 1 Laws 2015

SECTION 1. Section 6-27-1 NMSA 1978 (being Laws 2004, Chapter 104, Section 1) is amended to read:

"6-27-1. SHORT TITLE.--Chapter 6, Article 27 NMSA 1978 may be cited as the "Affordable Housing Act"."

Chapter 69 Section 2 Laws 2015

SECTION 2. Section 6-27-2 NMSA 1978 (being Laws 2004, Chapter 104, Section 2) is amended to read:

"6-27-2. PURPOSE.--The purpose of the Affordable Housing Act is to implement the provisions of Subsections E and F of Article 9, Section 14 of the constitution of New Mexico."

Chapter 69 Section 3 Laws 2015

SECTION 3. Section 6-27-3 NMSA 1978 (being Laws 2004, Chapter 104, Section 3, as amended) is amended to read:

"6-27-3. DEFINITIONS.--As used in the Affordable Housing Act:

A. "affordable housing" means residential housing primarily for persons or households of low or moderate income;

B. "authority" means the New Mexico mortgage finance authority;

C. "building" means a structure capable of being renovated or converted into affordable housing or a structure that is to be demolished and is located on land that is donated and upon which affordable housing will be constructed;

D. "governmental entity" means the state, including any agency or instrumentality of the state, a county, a municipality or the authority;

E. "household" means one or more persons occupying a housing unit;

F. "housing assistance grant" means the donation, provision or payment by a governmental entity of:

(1) land upon which affordable housing will be constructed;

(2) an existing building that will be renovated, converted or demolished and reconstructed as affordable housing;

(3) the costs of acquisition, development, construction, financing and operating or owning affordable housing; or

(4) the costs of financing or infrastructure necessary to support affordable housing;

G. "infrastructure" includes infrastructure improvements and infrastructure purposes;

H. "infrastructure improvement" includes, but is not limited to:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) areas for motor vehicle use for road access, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for access, ingress, egress and parking;

(6) parks, recreational facilities and open space areas to be used by residents for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;

(8) electrical transmission and distribution facilities;

(9) natural gas distribution facilities;

(10) lighting systems;

(11) cable or other telecommunications lines and related equipment;

(12) traffic control systems and devices, including signals, controls, markings and signs;

(13) inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and

(14) heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements that are affixed to real property;

I. "infrastructure purpose" means:

(1) planning, design, engineering, construction, acquisition or installation of infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of the infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for infrastructure, including facilities owned, leased or installed by the owner;

(3) acquiring interests in real property or water rights for infrastructure, including interests of the owner; and

(4) incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection;

J. "municipality" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties;

K. "public post-secondary educational institution" means a state university or a public community college;

L. "qualifying grantee" means:

(1) an individual who is qualified to receive assistance pursuant to the Affordable Housing Act and is approved by the governmental entity; and

(2) a governmental housing agency, regional housing authority, tribal housing agency, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization that:

(a) is organized under state, local or tribal laws and can provide proof of such organization;

(b) if a nonprofit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and

(c) is approved by the governmental entity; and

M. "residential housing" means any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential housing" includes congregate housing, manufactured homes, housing intended to provide or providing transitional or temporary housing for homeless

persons and common health care, kitchen, dining, recreational and other facilities primarily for use by residents of a residential housing project."

Chapter 69 Section 4 Laws 2015

SECTION 4. Section 6-27-4 NMSA 1978 (being Laws 2004, Chapter 104, Section 4) is amended to read:

"6-27-4. ELIGIBILITY REQUIREMENTS--NON-INDIVIDUAL AND INDIVIDUAL QUALIFYING GRANTEES.--

A. To be eligible to receive lands, buildings and infrastructure pursuant to Article 9, Section 14 of the constitution of New Mexico, a nonindividual qualifying grantee shall:

(1) have a functioning accounting system that is operated in accordance with generally accepted accounting principles or shall designate an entity that will maintain such an accounting system consistent with generally accepted accounting principles;

(2) have among its purposes significant activities related to providing housing or services to low- or moderate-income persons or households; and

(3) if it has significant outstanding or unresolved monitoring findings from either the authority or its most recent independent financial audit, have a certified letter from the authority or auditor stating that the findings are in the process of being resolved.

B. To be eligible to receive lands, buildings and infrastructure pursuant to Article 9, Section 14 of the constitution of New Mexico, an individual qualifying grantee shall meet the requirements established by the authority pursuant to the Affordable Housing Act."

Chapter 69 Section 5 Laws 2015

SECTION 5. Section 6-27-5 NMSA 1978 (being Laws 2004, Chapter 104, Section 5, as amended) is amended to read:

"6-27-5. STATE, COUNTY, MUNICIPALITIES, INSTRUMENTALITIES OF THE STATE AND THE AUTHORITY--AUTHORIZATION FOR AFFORDABLE HOUSING.-- The state, including any agency or instrumentality of the state, or a county, a municipality or the authority may:

A. donate, provide or pay all, or a portion, of the costs of land for the construction on the land of affordable housing;

B. donate, provide or pay all or a portion of the costs of conversion or renovation of existing buildings into affordable housing;

C. provide or pay the costs of financing or infrastructure necessary to support affordable housing projects; or

D. provide or pay all or a portion of the costs of acquisition, development, construction, financing, operating or owning affordable housing."

Chapter 69 Section 6 Laws 2015

SECTION 6. Section 6-27-6 NMSA 1978 (being Laws 2004, Chapter 104, Section 6) is amended to read:

"6-27-6. REQUIREMENT FOR SPECIFIC LAW AUTHORIZING A HOUSING ASSISTANCE GRANT FROM STATE.--

A. The specific grant of authority created in the Affordable Housing Act is the prior approval required pursuant to Article 9, Section 14 of the constitution of New Mexico to allow the state to provide affordable housing assistance.

B. Funding pursuant to this grant of authority shall be appropriated to the department of finance and administration for disbursement by the authority to a qualifying grantee in accordance with rules promulgated by the authority.

C. Rules adopted by the authority may include provisions for matching or using local, private or federal funds in connection with a specific grant, but matching or using federal funds shall not be prohibited.

D. The authority shall seek comment from the Mortgage Finance Authority Act oversight committee prior to its adoption of rules pursuant to this section."

Chapter 69 Section 7 Laws 2015

SECTION 7. Section 6-27-7 NMSA 1978 (being Laws 2004, Chapter 104, Section 7, as amended) is amended to read:

"6-27-7. REQUIREMENT FOR ENACTMENT OF AN ORDINANCE BY A COUNTY OR A MUNICIPALITY AND REVIEW BY THE AUTHORITY AUTHORIZING HOUSING ASSISTANCE GRANTS.--

A. A county or municipality may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico after enactment by its governing body of an ordinance authorizing grants stating the requirements of and purposes of the grants. The ordinance may provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to

federal law or through indirect participation through programs of the authority. No less than forty-five days prior to enactment, the county or municipality shall submit a proposed ordinance to the authority, which shall review the proposed ordinance to ensure compliance with rules promulgated by the authority pursuant to Section

6-27-8 NMSA 1978. Within fifteen days after enactment of the ordinance, the county or municipality shall submit a certified true copy of the ordinance to the authority. The governing body of the county or municipality shall authorize the transfer or disbursement of housing assistance grant funds only after the qualifying grantee has submitted a budget to the governing body and the governing body has approved the budget.

B. A school district may transfer land or buildings owned by the school district to a county or municipality to be further granted as part or all of an affordable housing grant if the school district and the governing body of the county or municipality enter into a contract that provides the school district with a negotiated number of affordable housing units that will be reserved for employees of the school district.

C. The governing board of a public post-secondary educational institution may transfer land or buildings owned by that institution to a county or municipality; provided that:

(1) the property transferred shall be granted by the county or municipality as part or all of an affordable housing grant; and

(2) the governing board of the public post-secondary educational institution and the governing body of the county or municipality enter into a contract that provides the public post-secondary educational institution with affordable housing units.

D. Agencies or instrumentalities of the state may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico in accordance with rules promulgated by the authority.

E. The authority may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico in accordance with rules promulgated by the authority."

Chapter 69 Section 8 Laws 2015

SECTION 8. Section 6-27-8 NMSA 1978 (being Laws 2004, Chapter 104, Section 8, as amended) is amended to read:

"6-27-8. PROVISIONS TO ENSURE SUCCESSFUL COMPLETION OF AFFORDABLE HOUSING PROJECTS--SALE AFTER FORECLOSURE.--

A. State, county and municipal housing assistance grants awarded pursuant to the Affordable Housing Act shall be applied for and awarded to qualifying grantees pursuant to the rules promulgated by the authority subject to the requirements of that act.

B. The authority shall adopt rules in accordance with the Administrative Procedures Act to carry out the purposes of the Affordable Housing Act. Concurrence by the New Mexico municipal league is required for rules applicable to municipalities. Concurrence by the New Mexico association of counties is required for rules applicable to counties.

C. The authority shall adopt rules covering:

(1) procedures to ensure that qualifying grantees meet the requirements of the Affordable Housing Act and rules promulgated pursuant to that act both at the time of the award and through the term of the grant;

(2) establishment of an application and award timetable for housing assistance grants to permit the selection of the potential qualifying grantees prior to January of the year in which the grants would be made;

(3) contents of the application, including an independent evaluation of the:

- (a) financial and management stability of the applicant;
- (b) demonstrated commitment of the applicant to the community;
- (c) cost-benefit analysis of the project proposed by the applicant;
- (d) benefits to the community of a proposed project;
- (e) type or amount of assistance to be provided;
- (f) scope of the affordable housing project;
- (g) substantive or matching contribution by the applicant to the proposed project; and
- (h) performance schedule for the qualifying grantee with performance criteria;

(4) a requirement for long-term affordability of a state, county or municipal project so that a project cannot be sold shortly after completion and taken out of the affordable housing market;

(5) a requirement that a grant for a state or local project must impose a contractual obligation on the qualifying grantee that the housing units in a state or local project developed pursuant to the Affordable Housing Act be occupied by low- or moderate-income households;

(6) provisions for adequate security against the loss of public funds or property in the event that a qualifying grantee defaults on a contractual obligation for the project or abandons or otherwise fails to complete a project;

(7) a requirement for review and approval of a housing grant project budget by the grantor before any expenditure of grant funds or transfer of granted property;

(8) a requirement that, unless the period is extended for good cause shown, the authority shall act on an application within forty-five days of the date of receipt of an application that the authority deems to be complete and, if not acted upon, the application shall be deemed approved;

(9) a requirement that a condition of grant approval be proof of compliance with all applicable state and local laws, rules and ordinances;

(10) provisions defining "low- and moderate-income" and setting out requirements for verification of income levels;

(11) a requirement that a county or municipality that makes a housing assistance grant shall have an existing valid affordable housing plan or housing elements contained in its general plan;

(12) a requirement that the governmental entity enter into a contract with a qualifying grantee consistent with the Affordable Housing Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the qualifying grantee; and

(13) provisions necessary to ensure the timely sale of an affordable housing project on which a qualifying grantee has defaulted on a contractual obligation or abandoned or otherwise failed to complete.

D. The rules adopted by the authority pursuant to Paragraph (13) of Subsection C of this section shall require a governmental entity to:

(1) make a determination that the property is not marketable for a price that would sufficiently recover the public funds invested in the project;

(2) ascertain that the property has a title that has been transferred to the contracting governmental entity through a foreclosure sale, a transfer of title by deed in lieu of foreclosure or any other manner;

(3) exercise reasonable efforts to ensure that all proceeds from the sale of a property pursuant to Paragraph (13) of Subsection C of this section are used solely for purposes pursuant to the Affordable Housing Act and that the qualifying grantee that held title to the property shall not benefit from the sale of the property or from the transfer of the affordable housing project; and

(4) provide the terms for:

(a) the sale of the property at fair market value; and

(b) the removal of the contractual obligation requiring long-term occupancy of the property by low- or moderate-income households."

Chapter 69 Section 9 Laws 2015

SECTION 9. A new section of the Affordable Housing Act is enacted to read:

"INVESTIGATION OF AFFORDABLE HOUSING ACT VIOLATIONS--
PENALTIES --REMEDIES.--

A. The attorney general shall investigate an alleged violation of the Affordable Housing Act reported by the authority. If the attorney general has reasonable belief that a person is in possession, custody or control of an original or copy of a document or recording, including a record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription or other tangible document or recording that the attorney general believes to be relevant to the subject matter of an investigation of a probable violation of the Affordable Housing Act, the attorney general may, prior to the institution of a civil proceeding, execute in writing and cause to be served upon the person a civil investigative demand requiring the person to produce for inspection or copying the document or recording.

B. If the attorney general has reasonable belief that a person has violated a provision of the Affordable Housing Act and that instituting a proceeding against that person would be in the public interest, the attorney general may bring a civil action on behalf of the state alleging a violation of the Affordable Housing Act. The action may be brought in the district court of the county in which the person alleged to have violated that act resides or in which the person's principal place of business is located. The attorney general shall not be required to post bond when seeking a temporary or permanent injunction in the civil action.

C. The attorney general may, in addition to or as an alternative to pursuing a civil action, as provided in this section, pursue criminal charges against a person for

an alleged violation of the Affordable Housing Act under the applicable provisions of the Criminal Code. Venue for any criminal action shall be in the judicial district where the violation occurred.

D. In a civil action brought under this section for an alleged violation of the Affordable Housing Act, if a court finds that a person willfully committed an act in violation of the Affordable Housing Act, the attorney general may seek to recover a civil penalty not exceeding the amount of five thousand dollars (\$5,000) per violation, in addition to any equitable relief imposed by the court.

E. As used in this section, "person" means an individual, including a municipal or county government employee or elected official, or a corporate entity, including any organization formed under state law to carry out business or other activities."

Chapter 69 Section 10 Laws 2015

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 61, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 70

AN ACT

RELATING TO INSURANCE; AMENDING THE WORKERS' COMPENSATION ACT AND THE NEW MEXICO OCCUPATIONAL DISEASE DISABLEMENT LAW TO CHANGE TEMPORARY DISABILITY BENEFITS; PROVIDING FOR LIFETIME MAXIMUM PERIOD.

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

Chapter 70 Section 1 Laws 2015

SECTION 1. Section 52-1-41 NMSA 1978 (being Laws 1959, Chapter 67, Section 20, as amended) is amended to read:

"52-1-41. COMPENSATION BENEFITS--TOTAL DISABILITY.--

A. For total disability, the worker shall receive, during the period of that disability, sixty-six and two-thirds percent of the worker's average weekly wage, and not to exceed a maximum compensation of eighty-five percent of the average weekly wage in the state, a week, effective July 1, 1987 through December 31, 1999, and thereafter not to exceed a maximum compensation of one hundred percent of the average weekly wage in the state, a week; and to be not less than a minimum compensation of thirty-six dollars (\$36.00) a week.

B. For permanent total disability as set forth in Section 52-1-25 NMSA 1978, the worker shall receive compensation benefits for the remainder of the worker's life. For temporary disability as set forth in Section 52-1-25.1 NMSA 1978, the maximum period of compensation is subject to the maximum duration and limitation on compensation benefits set forth in Section 52-1-47 NMSA 1978.

C. For disability resulting from primary mental impairment, the maximum period of compensation is the maximum period allowable for a physical injury, as set forth in Sections 52-1-26 and 52-1-42 NMSA 1978, and subject to the maximum duration and limitations on compensation benefits set forth in Section 52-1-47 NMSA 1978. For disability resulting in secondary mental impairment, the maximum period of compensation is the maximum period allowable for the disability produced by the physical impairment, as set forth in Section 52-1-26 or 52-1-43 NMSA 1978 and Section 52-1-42 NMSA 1978, and subject to the maximum duration and limitations on compensation benefits set forth in Section 52-1-47 NMSA 1978.

D. For the purpose of paying compensation benefits for death, pursuant to Section 52-1-46 NMSA 1978, the worker's maximum disability recovery shall be deemed to be seven hundred weeks.

E. Where the worker's average weekly wage is less than thirty-six dollars (\$36.00) a week, the compensation to be paid the worker shall be the worker's full weekly wage.

F. For the purpose of the Workers' Compensation Act, the average weekly wage in the state shall be determined by the workforce solutions department on or before June 30 of each year and shall be computed from all wages reported to the workforce solutions department from employing units, including reimbursable employers, in accordance with the rules of the department for the preceding calendar year, divided by the total number of covered employees divided by fifty-two.

G. The average weekly wage in the state, determined as provided in Subsection F of this section, shall be applicable for the full period during which compensation is payable when the date of the occurrence of an accidental injury falls within the calendar year commencing January 1 following the June 30 determination.

H. Unless the computation provided for in Subsection F of this section results in an increase or decrease of two dollars (\$2.00) or more, raised to the next

whole dollar, the statewide average weekly wage determination shall not be changed for any calendar year."

Chapter 70 Section 2 Laws 2015

SECTION 2. Section 52-1-42 NMSA 1978 (being Laws 1959, Chapter 67, Section 21, as amended) is amended to read:

"52-1-42. COMPENSATION BENEFITS--PERMANENT PARTIAL DISABILITY--MAXIMUM DURATION OF BENEFITS.--

A. For permanent partial disability, the workers' compensation benefits not specifically provided for in Section 52-1-43 NMSA 1978 shall be a percentage of the weekly benefit payable for total disability as provided in Section 52-1-41 NMSA 1978. The percentage of permanent partial disability shall be determined pursuant to the provisions of Sections 52-1-26 through 52-1-26.4 NMSA 1978. The duration of partial disability benefits shall depend upon the extent and nature of the partial disability, subject to the following:

(1) where the worker's percentage of disability is equal to or greater than eighty, the maximum period is seven hundred weeks;

(2) where the worker's percentage of disability is less than eighty, the maximum period is five hundred weeks;

(3) where the partial disability results from a primary mental impairment, the maximum period is the maximum period allowable for a physical injury, as set forth in Section 52-1-26 NMSA 1978, and subject to the maximum duration and limitations on compensation benefits set forth in Section 52-1-47 NMSA 1978; and

(4) where the partial disability results from a secondary mental impairment, the maximum period is the maximum period allowable for the disability produced by the physical impairment, as set forth in Section 52-1-26 or 52-1-43 NMSA 1978, and subject to the maximum duration and limitations on compensation benefits set forth in Section 52-1-47 NMSA 1978.

B. If an injured worker receives temporary disability benefits prior to an award of permanent partial disability benefits, the maximum period for permanent partial disability benefits shall be reduced by the number of weeks the worker actually receives temporary disability benefits."

Chapter 70 Section 3 Laws 2015

SECTION 3. Section 52-1-47 NMSA 1978 (being Laws 1959, Chapter 67, Section 26, as amended) is amended to read:

"52-1-47. LIMITATIONS ON COMPENSATION BENEFITS.--Subject to the limitation of compensation payable under Subsection G of Section 52-1-46 NMSA 1978 and except for provision of lifetime benefits for permanent total disability awarded pursuant to Section 52-1-41 NMSA 1978:

A. compensation benefits for any combination of disabilities, whether temporary or permanent, or any combination of disabilities and death shall not be payable for a period in excess of seven hundred weeks;

B. compensation benefits for any combination of disabilities or any combination of disabilities and death shall not exceed an amount equal to seven hundred multiplied by the maximum weekly compensation payable at the time of the accidental injury resulting in the disability or death under Section 52-1-41 NMSA 1978, exclusive of increased compensation that may be awarded under Sections 52-1-10, 52-1-28.1 and 52-1-46 NMSA 1978 and exclusive of any attorney fees awarded under Section 52-1-54 NMSA 1978;

C. in no case shall compensation benefits for disability continue after the disability ends or after the death of the injured worker; and

D. the compensation benefits payable by reason of disability caused by accidental injury shall be reduced by the compensation benefits paid or payable on account of any prior injury suffered by the worker if compensation benefits in both instances are for injury to the same member or function or different parts of the same member or function or for disfigurement and if the compensation benefits payable on account of the subsequent injury would, in whole or in part, duplicate the benefits paid or payable on account of the prior injury."

Chapter 70 Section 4 Laws 2015

SECTION 4. Section 52-3-14 NMSA 1978 (being Laws 1945, Chapter 135, Section 14, as amended) is amended to read:

"52-3-14. COMPENSATION--LIMITATIONS.--

A. The compensation to which a worker who has suffered disablement, or the worker's dependents, shall be entitled under the New Mexico Occupational Disease Disablement Law is limited to the provisions of that law. No compensation shall be due or payable under the New Mexico Occupational Disease Disablement Law for any disablement that does not result in either the temporary disablement of the worker lasting for more than seven days or in the worker's permanent disablement as herein described or in death; provided, however, that if the period of temporary disablement of the worker lasts for more than four weeks from the date of the disablement, compensation under the New Mexico Occupational Disease Disablement Law shall be payable in addition to the amount hereinafter stated in a like amount for the first seven days after the date of disablement. But for any such disablement for which

compensation is payable under the New Mexico Occupational Disease Disablement Law, the employer shall in all proper cases, as herein provided, pay to the disabled worker or to some person authorized by the director to receive the same, for the use and benefit of the beneficiaries entitled thereto, compensation at regular intervals of no more than sixteen days apart, in accordance with this section, less proper deductions on account of default in failure to give notice of such disablement as required in Section 52-3-19 NMSA 1978.

B. For total disablement, the worker shall receive sixty-six and two-thirds percent of the worker's average weekly wage, not to exceed a maximum compensation of eighty-five percent of the average weekly wage in the state, a week, effective July 1, 1987, continuing through December 31, 1999, and thereafter not to exceed a maximum of one hundred percent of the average weekly wage in the state, a week, but not to be less than a minimum compensation of thirty-six dollars (\$36.00) a week, during the period of such disablement, but in no event to exceed a period of seven hundred weeks; provided, however, that when the workers' wages are less than thirty-six dollars (\$36.00) a week, then the compensation to be paid such worker shall be the full amount of such weekly wages; provided further that the benefits paid or payable during a worker's entire period of disablement shall be based on and limited to the benefits in effect on the date of the occurrence of the disablement.

C. For partial disablement, the benefits shall be a percentage of the benefits payable for total disablement calculated under Subsection B of this section as that percentage is determined pursuant to the provisions of Section 52-3-4 NMSA 1978. In no event shall the duration of partial benefits extend longer than five hundred weeks.

D. In no event shall the duration of any combination of disablements, whether temporary or partial disablements, and death be payable for a period in excess of seven hundred weeks.

E. For the purpose of the New Mexico Occupational Disease Disablement Law, the average weekly wage in the state shall be determined by the workforce solutions department on or before June 30 of each year and shall be computed from all wages reported to the department from employing units, including reimbursable employers, in accordance with the rules of the department for the preceding calendar year, divided by the total number of covered employees divided by fifty-two. The first such determination by the employment security division of the average weekly wage in the state shall be made on or before June 30, 1975 from reported wages and covered employees for the calendar year ending December 31, 1974.

F. The average weekly wage in the state, determined as provided in Subsection E of this section, shall be applicable for the full period during which compensation is payable when the date of the occurrence of the disablement falls within the calendar year commencing January 1 following the June 30 determination.

G. Unless the computation provided for in Subsection E of this section results in an increase or decrease of two dollars (\$2.00) or more, raised to the next whole dollar, the statewide average weekly wage determination shall not be changed for any calendar year.

H. In case death proximately results from the disablement within the period of two years, compensation benefits to be paid such worker shall be in the amounts and to the persons as follows:

(1) if there are no dependents, the compensation shall be limited to the funeral expenses not to exceed seven thousand five hundred dollars (\$7,500) and the expenses provided for medical and hospital services for the deceased, together with such other sums as the deceased may have been paid for disablement; or

(2) if there are dependents at the time of death, the payment shall consist of a sum not to exceed seven thousand five hundred dollars (\$7,500) for funeral expenses and expenses provided for medical and hospital services for the deceased, together with such other sums as the deceased may have been paid for disability, and a percentage specified in this paragraph for average weekly wages subject to the limitations of the New Mexico Occupational Disease Disablement Law to continue for the period of seven hundred weeks from the date of death of such worker; provided that the total death compensation, unless otherwise specified, payable in any of the cases mentioned in this section shall not be less than the minimum weekly compensation provided in Subsection B of this section or more than the maximum weekly compensation provided in Subsection B of this section and shall be based on and limited to the benefits in effect on the date of the occurrence of the disablement. If there are dependents entitled thereto, compensation shall be paid to the dependents or to the person authorized by the director or the court to receive the same for the benefit of the dependents in such portions and amounts as the director or the court, bearing in mind the necessities of the case and the best interests of the dependents and of the public, may determine, to be computed on the following basis and distributed to the following persons:

(a) to the child or children, if there is no widow or widower entitled to compensation, sixty-six and two-thirds percent of the average weekly wage of the deceased;

(b) to the widow or widower, if there are no children, sixty-six and two-thirds percent of the average weekly wage of the deceased, until remarriage;

(c) to the widow or widower, if there is a child or children living with the widow or widower, forty-five percent of the compensation rate, as provided in Subsection B of this section, of the deceased, or forty percent, if such child is not or all such children are not living with a widow or widower, and in addition thereto, compensation benefits for the child or children, which shall make the total benefits for the widow or widower and child or children sixty-six and two-thirds percent of the

average weekly wage of the deceased. When there are two or more children, the compensation benefits payable on account of such children shall be divided among such children, share and share alike;

(d) two years' compensation benefits in one lump sum shall be payable to a widow or widower upon remarriage; however, the total benefits shall not exceed the maximum compensation benefits as provided in Paragraph (2) of this subsection;

(e) if there is neither widow, widower nor children, then to the father and mother or the survivor of them if dependent to any extent upon the worker for support at the time of the worker's death, twenty-five percent of the average weekly wage of the deceased; provided that if such father and mother, or the survivor of them, was totally dependent upon such worker for support at the time of the worker's death, they shall be entitled to fifty percent of the average weekly wage of the deceased, subject to the maximum weekly compensation provided for in Subsection B of this section;

(f) no disablement benefits payable by reason of a worker's death shall exceed the maximum weekly compensation provided for in Subsection B of this section, and no dependent or any class thereof other than a widow or widower or children shall in any event be paid total benefits in excess of seven thousand five hundred dollars (\$7,500) exclusive of funeral expenses and the expenses provided for medical and hospital services for the deceased paid for by the employer. If there is neither widow, widower nor children nor dependent parent, then to the brothers and sisters, if actually dependent to any extent upon the deceased for support at the time of the deceased's death, thirty-five percent of the average weekly wage of the deceased, with fifteen percent additional for brothers or sisters in excess of two, with a maximum of sixty-six and two-thirds percent to be paid to their guardian; provided that the maximum compensation to partial dependents shall not exceed the respective amounts therefor contributed by the deceased employee or the maximum weekly compensation provided for in Subsection B of this section; and

(g) in the event of the death or remarriage of the widow or widower entitled to compensation under this subsection, the surviving children shall then be entitled to compensation computed and paid as in Subparagraph (a) of this paragraph for the remainder of the compensable period, and in the event compensation benefits payable to children as provided in this section are terminated as provided in Paragraph (5) of Subsection A of Section 52-3-13 NMSA 1978, a surviving widow or widower shall then be entitled to compensation benefits computed and paid as provided in Subparagraphs (b) and (d) of this paragraph for the remainder of the compensable period."

Approved April 7, 2015

LAWS 2015, CHAPTER 71

AN ACT

RELATING TO UTILITIES; ALLOWING RENEWABLE ENERGY CERTIFICATES TO BE ISSUED FOR THE USE OF THERMAL ENERGY PRODUCED BY GEOTHERMAL ENERGY SOURCES; SETTING STANDARDS FOR MEASUREMENT OF THERMAL ENERGY AND GEOTHERMAL HEAT PUMPS; DEFINING "USEFUL THERMAL ENERGY".

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

Chapter 71 Section 1 Laws 2015

SECTION 1. Section 62-15-35 NMSA 1978 (being Laws 2007, Chapter 4, Section 2) is amended to read:

"62-15-35. RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.--
The public regulation commission shall establish:

A. a system of renewable energy certificates that can be used by a distribution cooperative to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a rural electric cooperative is located. The kilowatt-hour value of renewable energy certificates may be varied by renewable energy resource or technology; provided that:

(1) each renewable energy certificate shall have a minimum value of one kilowatt-hour for purposes of compliance with the renewable portfolio standard;

(2) three thousand four hundred twelve British thermal units of useful thermal energy is equivalent to one kilowatt-hour for purposes of compliance with the renewable portfolio standard; and

(3) the following equation shall be used to calculate the annual renewable energy certificate value for a geothermal heat pump system: (coefficient of performance of heat pump unit – 1) X (ton rating of heat pump unit/.9) = number of megawatt-hours of renewable energy certificates; and

B. requirements and procedures concerning renewable energy certificates that include the provisions that:

(1) renewable energy certificates:

(a) are owned by the generator of the renewable energy unless: 1) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator; 2) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the distribution cooperative purchaser of the renewable energy unless retained by the generator through specific agreement with the distribution cooperative purchaser of the energy; or 3) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the renewable energy certificates are owned by the purchaser of the energy for the term of such contract;

(b) may be traded, sold or otherwise transferred by their owner to any other party; provided that the transfers and use of the certificate by a distribution cooperative for compliance with the renewable energy portfolio standard shall require the electric or useful thermal energy represented by the certificate to be contracted for delivery or consumed, or generated by an end-use customer of the distribution cooperative in New Mexico unless the commission determines that the distribution cooperative is participating in a national or regional market for exchanging renewable energy certificates;

(c) that are used for the purpose of meeting the renewable portfolio standard shall be registered, beginning January 1, 2008, with a renewable energy generation information system that is designed to create and track ownership of renewable energy certificates and that, through the use of independently audited generation data, verifies the generation and delivery of electricity or useful thermal energy associated with each renewable energy certificate and protects against multiple counting of the same renewable energy certificate;

(d) that are used once by a distribution cooperative to satisfy the renewable portfolio standard and are retired or that are traded, sold or otherwise transferred by the distribution cooperative shall not be further used by the distribution cooperative; and

(e) that are not used by a distribution cooperative to satisfy the renewable portfolio standard or that are not traded, sold or otherwise transferred by the distribution cooperative may be carried forward for up to four years from the date of issuance and, if not used by that time, shall be retired by the distribution cooperative; and

(2) a distribution cooperative shall be responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party."

Chapter 71 Section 2 Laws 2015

SECTION 2. Section 62-15-37 NMSA 1978 (being Laws 2007, Chapter 4, Section 4) is amended to read:

"62-15-37. DEFINITIONS--ENERGY EFFICIENCY--RENEWABLE ENERGY.--As used in the Rural Electric Cooperative Act:

A. "energy efficiency" means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity without reducing the amount or quality of energy services;

B. "renewable energy" means electric or useful thermal energy:

(1) generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and

(2) generated by use of renewable energy resources that may include:

(a) solar, wind and geothermal resources;

(b) hydropower facilities brought in service after July 1, 2007;

(c) fuel cells that are not fossil fueled; and

(d) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; but

(3) does not include electric energy generated by use of fossil fuel or nuclear energy; and

C. "useful thermal energy" means renewable energy delivered from a source that can be metered and that is delivered in the state to an end user in the form of direct heat, steam or hot water or other thermal form that is used for heating, cooling, humidity control, process use or other valid end-use energy requirements and for which fossil fuel or electricity would otherwise be consumed."

Chapter 71 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 249, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 72

AN ACT

RELATING TO UTILITIES; AMENDING A SECTION OF THE PUBLIC UTILITY ACT TO PROVIDE FOR ECONOMIC DEVELOPMENT RATES NO LOWER THAN THE INCREMENTAL COST OF PROVIDING SERVICE.

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

Chapter 72 Section 1 Laws 2015

SECTION 1. Section 62-6-26 NMSA 1978 (being Laws 1989, Chapter 5, Section 1, as amended) is amended to read:

"62-6-26. ECONOMIC DEVELOPMENT RATES FOR GAS AND ELECTRIC UTILITIES--AUTHORIZATION.--

A. The commission may approve or otherwise allow to become effective, as provided in Subsection B of this section, applications from utilities or persons subject to regulation pursuant to Subsection B of Section 62-6-4 NMSA 1978 or filings by cooperative utilities pursuant to Section 62-8-7 NMSA 1978, as appropriate, for special rates or tariffs in order to prevent the loss of customers, to encourage customers to expand present facilities and operations in New Mexico and to attract new customers where necessary or appropriate to promote economic development in New Mexico. Any such special rates or tariffs shall be designed so as to recover at least the incremental cost of providing service to such customers.

B. The commission may approve or otherwise allow to become effective applications from utilities or persons subject to regulation pursuant to Subsection B of Section 62-6-4 NMSA 1978 and filings by cooperative utilities pursuant to Section 62-8-7 NMSA 1978 for economic development rates and rates designed to retain load for gas and electric utility customers. For purposes of this section and Section 62-8-6 NMSA 1978, economic development rates and rates designed to retain load are rates set at a level lower than the corresponding service rate for which a customer would otherwise qualify.

C. Except as provided in Subsection D of this section, economic development rates shall be approved or otherwise allowed to become effective for an electric utility or persons subject to regulation pursuant to Subsection B of Section 62-6-4 NMSA 1978 or filings by cooperative utilities pursuant to Section 62-8-7 NMSA 1978 only when the utility or the substantially full requirements supplier of the utility has

excess capacity. For purposes of this section, "excess capacity" means the amount of electric generating and purchased power capacity available to the utility or such supplier that is greater than the utility's or such supplier's peak load plus a fixed percentage reserve margin set by the commission.

D. Economic development rates may be approved or otherwise allowed to become effective for electric utilities or persons subject to regulation pursuant to Subsection B of Section 62-6-4 NMSA 1978 or filings by cooperative utilities pursuant to Section 62-8-7 NMSA 1978 that do not meet the qualifications of Subsection C of this section; provided that the following conditions are met:

(1) economic development rates approved under this subsection shall not be lower than the incremental cost of providing service to the economic development rate customer as determined by the commission. As used in this subsection, "economic development rate customer" means a customer that directly benefits from the economic development rate established pursuant to this subsection; and

(2) an economic development rate approved for any customer under this subsection shall last no longer than four years, except that the commission may approve the rate for up to twelve additional months if it finds that the additional period is necessary to attract a particular economic development rate customer to New Mexico.

E. For purposes of this section, "incremental cost" at a minimum shall include all additional costs incurred to serve the economic development rate customer that would not otherwise have been incurred to serve other customers, fuel and purchased power costs, costs recoverable from customers pursuant to the Renewable Energy Act and the Efficient Use of Energy Act and the direct costs of facilities necessary to provide service to the customer. The commission shall not impute to the electric utility revenues that would have been received from the economic development rate or load retention customer if they had been provided service under the corresponding rate for which they would have otherwise qualified."

SJC/Senate Bill 352, aa

Approved April 7, 2015

LAWS 2015, CHAPTER 73

AN ACT

RELATING TO TAX ADMINISTRATION; ENACTING THE ADMINISTRATIVE HEARINGS OFFICE ACT; PROVIDING FOR A CHIEF HEARING OFFICER;

CREATING A CHIEF HEARING OFFICER SELECTION COMMITTEE; PROVIDING FOR INDEPENDENT HEARING OFFICERS; CREATING A HEARING OFFICE SEPARATE FROM THE TAXATION AND REVENUE DEPARTMENT FOR ADMINISTRATIVE HEARINGS; PROVIDING POWERS AND DUTIES; PROVIDING PROCEDURES; TRANSFERRING FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS, STATUTORY REFERENCES AND RULES; REPEALING SECTION 7-1-24.1 NMSA 1978 (BEING LAWS 2013, CHAPTER 27, SECTION 7).

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

Chapter 73 Section 1 Laws 2015

SECTION 1. SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "Administrative Hearings Office Act".

Chapter 73 Section 2 Laws 2015

SECTION 2. ADMINISTRATIVE HEARINGS OFFICE--CREATED.--The "administrative hearings office" is created and is administratively attached pursuant to the provisions of Section 9-1-7 NMSA 1978 to the department of finance and administration.

Chapter 73 Section 3 Laws 2015

SECTION 3. CHIEF HEARING OFFICER--APPOINTMENT.--The head of the administrative hearings office is the "chief hearing officer", who shall be appointed for a term of six years, except that the initial term shall begin on July 1, 2015 and shall end on December 31, 2015. The chief hearing officer may be reappointed to successive terms. An appointed chief hearing officer shall serve and have all the duties, responsibilities and authority of that office during the period of time prior to appointment of a new chief hearing officer. The initial chief hearing officer shall be the person who is the chief of the hearings bureau of the taxation and revenue department on July 1, 2015. The chief hearing officer shall be removed only for malfeasance, misfeasance or abuse of office.

Chapter 73 Section 4 Laws 2015

SECTION 4. CHIEF HEARING OFFICER SELECTION COMMITTEE--DUTIES.--

A. The "chief hearing officer selection committee" is created and consists of nine members, including:

(1) four members who are selected by the New Mexico legislative council, no more than two of whom are from the same political party;

(2) four members who are selected by the governor, no more than two of whom are from the same political party; and

(3) a committee chair, whom a majority of the other eight members select and who is:

(a) not a candidate for the position of chief hearing officer; and

(b) either a former chief of the hearings bureau of the taxation and revenue department, a former chief hearing officer or another person with extensive knowledge of the tax law.

B. The chief hearing officer selection committee shall meet exclusively for the purpose of nominating persons to fill a current or impending vacancy in the position of chief hearing officer of the administrative hearings office. The committee shall actively solicit, accept and evaluate applications for the position of chief hearing officer and may require applicants to submit any information that the committee deems relevant to the consideration of applications. Within ninety days before the date on which the term of a chief hearing officer ends or no later than thirty days after the occurrence of a vacancy in the chief hearing officer position, the chief hearing officer selection committee shall convene and, within thirty days after convening, submit to the governor the names of persons who:

(1) are attorneys licensed to practice law in New Mexico or another state;

(2) have knowledge of the tax law and substantial experience making the record in an administrative hearing suitable for judicial review; and

(3) are recommended for appointment to the position by a majority of the committee.

C. Immediately after receiving nominations for chief hearing officer, the governor may make one request of the committee for submission of additional names. The committee shall promptly submit those additional names if a majority of the committee finds that additional persons would be qualified and recommends those persons for appointment as chief hearing officer. The governor shall fill a vacancy or appoint a successor to fill an impending vacancy in the office of chief hearing officer within thirty days after receiving final nominations from the committee by appointing one of the persons nominated by the committee.

D. The chief hearing officer selection committee is administratively attached pursuant to the provisions of Section 9-1-7 NMSA 1978 to the department of finance and administration.

Chapter 73 Section 5 Laws 2015

SECTION 5. CHIEF HEARING OFFICER--POWERS AND DUTIES--EMPLOYEES OF THE OFFICE.--

A. The chief hearing officer may:

(1) adopt and promulgate rules pertaining to administrative hearings; and

(2) subject to appropriations, hire and contract for such professional, technical and support staff as needed to carry out the functions of the administrative hearings office; provided that such hiring and contracting be without regard to party affiliation and solely on the grounds of competence and fitness to perform the duties of the position. Employees of the administrative hearings office, except the chief hearing officer, are subject to the provisions of the Personnel Act.

B. The chief hearing officer shall:

(1) oversee the administrative hearings office; and

(2) considering the knowledge and experience of particular hearing officers, efficiency in the hearing process and potential conflicts of interest, assign and distribute the work of the office.

Chapter 73 Section 6 Laws 2015

SECTION 6. HEARING OFFICER CODE OF CONDUCT--INDEPENDENCE.--

A. The chief hearing officer shall:

(1) adopt and promulgate a hearing officer code of conduct; and

(2) periodically evaluate each hearing officer's performance for competency, efficiency and professional demeanor in accord with relevant legal standards and the hearing officer code of conduct.

B. The chief hearing officer shall ensure that each hearing officer has decisional independence; however, the chief hearing officer may:

(1) consult with a hearing officer about a genuine question of law; and

(2) review with a hearing officer any issue on appeal addressed by a court of this state.

C. The administrative hearings office shall:

- (1) hear all tax protests pursuant to the provisions of the Tax Administration Act;
- (2) hear property tax protests pursuant to the provisions of the Property Tax Code;
- (3) hear all certificate-denial protests pursuant to the provisions of Section 13-1-22 NMSA 1978;
- (4) conduct all adjudicatory hearings pursuant to the Motor Vehicle Code;
- (5) conduct all driver's license revocation hearings pursuant to the provisions of the Implied Consent Act;
- (6) make and preserve a complete record of all proceedings; and
- (7) maintain confidentiality regarding taxpayer information as required by the provisions of Section 7-1-8 NMSA 1978.

D. In hearings conducted pursuant to the Tax Administration Act, Section 13-1-22 NMSA 1978 and the Motor Vehicle Code:

(1) the Rules of Evidence do not apply. The hearing officer may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt, to rule on the admissibility of evidence. A taxpayer or the taxation and revenue department may request a written ruling on a contested question of evidence in a matter in which the taxpayer has filed a written protest and for which that protest is pending. The administrative hearings office shall issue a copy of its written ruling to the taxation and revenue department at the time the ruling is issued to the taxpayer;

(2) the Rules of Civil Procedure for the District Courts do not apply. The hearing officer shall conduct a hearing to allow the ample and fair presentation of complaints and defenses. The hearing officer shall hear arguments, permit discovery, entertain and dispose of motions, require written expositions of the case as the circumstances justify and render a decision in accordance with the law and the evidence presented and admitted. A taxpayer or the taxation and revenue department may request a written ruling on a contested question of procedure in a matter in which the taxpayer has filed a written protest and for which that protest is pending. The administrative hearings office shall issue a copy of its written ruling to the taxation and revenue department at the time the ruling is issued to the taxpayer; and

(3) the hearing officer may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and for hearings conducted for a license suspension pursuant to Section 66-5-30 NMSA 1978, the hearing officer may require a reexamination of the licensee.

Chapter 73 Section 7 Laws 2015

SECTION 7. CERTAIN ACTIONS PROHIBITED.--A hearing officer shall not:

A. engage or participate in any way in the enforcement or formulation of general tax policy other than to conduct hearings. A taxpayer or the taxation and revenue department may request that the chief hearing officer determine whether a hearing officer has engaged or participated in the enforcement or formulation of general tax policy and whether that engagement or participation affects the hearing officer's impartiality in a particular matter. To avoid actual or apparent prejudice, the chief hearing officer may designate another hearing officer for the matter; and

B. engage in ex-parte communications concerning the substantive issues of any matter that has been protested while that matter is pending. If the chief hearing officer determines that a hearing officer has engaged in prohibited ex-parte communications, the chief hearing officer shall designate another hearing officer for that matter.

Chapter 73 Section 8 Laws 2015

SECTION 8. TAX PROTESTS--PROCEDURES.--

A. Upon timely receipt of a tax protest filed pursuant to the provisions of Section 7-1-24 NMSA 1978, the taxation and revenue department shall promptly acknowledge the protest by letter to the protesting taxpayer or the taxpayer's representative. If the protest is not filed in accordance with the provisions of Section 7-1-24 NMSA 1978, the department shall inform the taxpayer of the deficiency and the opportunity to correct it. Within forty-five days after receipt of a protest filed pursuant to the provisions of Section 7-1-24 NMSA 1978 that has not been resolved, the taxation and revenue department shall request from the administrative hearings office a hearing and shall send to the office a copy of the protest. The chief hearing officer shall promptly designate a hearing officer and shall set a date for a hearing to take place within ninety days after receipt of a protest filed pursuant to Section 7-1-24 NMSA 1978.

B. A taxpayer may appear at the hearing on the taxpayer's own behalf or may be represented by a bona fide employee, an attorney, a certified public accountant or, with respect only to tax imposed pursuant to the Income Tax Act, a person who is an enrolled agent for federal income tax purposes. If the taxation and revenue department and the taxpayer agree, the hearing may be conducted via videoconference. At the beginning of the hearing, the hearing officer shall inform the taxpayer of the taxpayer's right to representation. A hearing shall not be open to the public except upon request of

the taxpayer. A hearing officer may postpone or continue a hearing at the hearing officer's discretion.

C. Within thirty days after the hearing, the hearing officer shall inform the taxation and revenue department and the taxpayer in writing of the decision and, pursuant to the provisions of Section 7-1-25 NMSA 1978, of the aggrieved party's right to, and the requirements for perfection of, an appeal from the decision to the court of appeals and of the consequences of a failure to appeal. The written decision shall embody an order granting or denying the relief requested or granting or denying a part of the relief requested, as appropriate.

D. A taxpayer with two or more protests containing related issues may request that the protests be combined and heard jointly. The hearing officer shall grant the request to combine protests unless it would create an unreasonable burden on the administrative hearings office or the taxation and revenue department.

E. 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 73 Section 9 Laws 2015

SECTION 9. MOTOR VEHICLE ADMINISTRATIVE HEARINGS-- PROCEDURES.--

A. A person may dispute the denial of or failure to either allow or deny a license, permit, placard or registration provided for in the Motor Vehicle Code. Upon timely receipt of a protest, the chief hearing officer shall promptly designate a hearing officer to conduct a hearing and shall set a date for the hearing. On that date, the hearing officer shall hear the protest.

B. A person may appear at a hearing set pursuant to the provisions of Subsection A of this section for the person's self or be represented by a bona fide employee or an attorney. A hearing shall not be open to the public except if held pursuant to the provisions of the Implied Consent Act or upon request of the person. A hearing officer may postpone or continue a hearing.

C. At the beginning of the hearing, the hearing officer shall inform the person of the person's right to representation. Within thirty days after the hearing, the hearing officer shall inform the protestant in writing of the decision and of the protestant's right to, and the requirements for perfection of, an appeal from the decision to the district court and of the consequences of a failure to appeal. The written decision shall embody an order granting or denying the relief requested or granting such part of the relief requested, as appropriate.

D. If the protestant or the secretary of taxation and revenue is dissatisfied with the decision and order of the hearing officer, the party may appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

E. No court of this state has jurisdiction to entertain a proceeding by any person in which the person calls into question the application to that person of any provision of the Motor Vehicle Code, except as a consequence of the appeal by that person to the district court from the action and order of the hearing officer as provided for in this section.

F. 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 73 Section 10 Laws 2015

SECTION 10. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;

B. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card, debit card or electronic cash transaction through the internet;

D. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

E. "financial institution" means any state or federally chartered, federally insured depository institution;

F. "hearing officer" means a person who has been designated by the chief hearing officer to serve as a hearing officer and who is:

- (1) the chief hearing officer;
- (2) an employee of the administrative hearings office; or
- (3) a contractor of the administrative hearings office;

G. "Internal Revenue Code" means the Internal Revenue Code of 1986, as that code may be amended or its sections renumbered;

H. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

I. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;

J. "managed audit" means a review and analysis conducted by a taxpayer under an agreement with the department to determine the taxpayer's compliance with a tax administered pursuant to the Tax Administration Act and the presentation of the results to the department for assessment of tax found to be due;

K. "net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;

L. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

M. "paid" includes the term "paid over";

N. "pay" includes the term "pay over";

O. "payment" includes the term "payment over";

P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; and "person", as used in Sections 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

Q. "property" means property or rights to property;

R. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

S. "return" means any tax or information return, declaration of estimated tax or claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the secretary or the secretary's delegate by or on behalf of any person;

T. "return information" means a taxpayer's name, address, government-issued identification number and other identifying information; any information contained in or derived from a taxpayer's return; any information with respect to any actual or possible administrative or legal action by an employee of the department concerning a taxpayer's return, such as audits, managed audits, denial of credits or refunds, assessments of tax, penalty or interest, protests of assessments or denial of refunds or credits, levies or liens; or any other information with respect to a taxpayer's return or tax liability that was not obtained from public sources or that was created by an employee of the department; but "return information" does not include statistical data or other information that cannot be associated with or directly or indirectly identify a particular taxpayer;

U. "secretary" means the secretary of taxation and revenue and, except for purposes of Subsection B of Section 7-1-4 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

V. "secretary or the secretary's delegate" means the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

W. "security" means money, property or rights to property or a surety bond;

X. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States;

Y. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act and, unless the context otherwise requires, includes the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law and includes, unless the context requires otherwise, the amount of any interest or civil penalty relating thereto;

Z. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person; and

AA. "taxpayer" means a person liable for payment of any tax; a person responsible for withholding and payment or for collection and payment of any tax; a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; or a person who entered into a special agreement to assume the liability of gross receipts tax or governmental gross receipts tax of another person and the special agreement was approved by the secretary pursuant to the Tax Administration Act."

Chapter 73 Section 11 Laws 2015

SECTION 11. Section 7-1-4.2 NMSA 1978 (being Laws 2003, Chapter 398, Section 2) is amended to read:

"7-1-4.2. NEW MEXICO TAXPAYER BILL OF RIGHTS.--The rights afforded New Mexico taxpayers during the assessment, collection and enforcement of any tax administered by the department as set forth in the Tax Administration Act include:

A. the right to available public information and prompt and courteous tax assistance;

B. the right to be represented or advised by counsel or other qualified representatives at any time in administrative interactions with the department in accordance with the provisions of Section 7-1-24 NMSA 1978 or the administrative hearings office in accordance with the provisions of the Administrative Hearings Office Act;

C. the right to have audits, inspections of records and meetings conducted at a reasonable time and place in accordance with the provisions of Section 7-1-11 NMSA 1978;

D. the right to have the department conduct its audits in a timely and expeditious manner and be entitled to the tolling of interest as provided in the Tax Administration Act;

E. the right to obtain nontechnical information that explains the procedures, remedies and rights available during audit, protest, appeals and collection proceedings pursuant to the Tax Administration Act;

F. the right to be provided with an explanation of the results of and the basis for audits, assessments or denials of refunds that identify any amount of tax, interest or penalty due;

G. the right to seek review, through formal or informal proceedings, of any findings or adverse decisions relating to determinations during audit or protest procedures in accordance with the provisions of Section 7-1-24 NMSA 1978 and the Administrative Hearings Office Act;

H. the right to have the taxpayer's tax information kept confidential unless otherwise specified by law, in accordance with Section 7-1-8 NMSA 1978;

I. the right to abatement of an assessment of taxes determined to have been incorrectly, erroneously or illegally made, as provided in Section 7-1-28 NMSA 1978 and the right to seek a compromise of an asserted tax liability by obtaining a written determination of liability or nonliability when the secretary in good faith is in doubt of the liability as provided in Section 7-1-20 NMSA 1978;

J. upon receipt of a tax assessment, the right to be informed clearly that if the assessment is not paid, secured, protested or otherwise provided for in accordance with the provisions of Section 7-1-16 NMSA 1978, the taxpayer will be a delinquent

taxpayer and, upon notice of delinquency, the right to timely notice of any collection actions that will require sale or seizure of the taxpayer's property in accordance with the provisions of the Tax Administration Act; and

K. the right to procedures for payment of tax obligations by installment payment agreements, in accordance with Section 7-1-21 NMSA 1978."

Chapter 73 Section 12 Laws 2015

SECTION 12. Section 7-1-8.3 NMSA 1978 (being Laws 2009, Chapter 243, Section 5) is amended to read:

"7-1-8.3. INFORMATION THAT MAY BE REVEALED TO PUBLIC.--An employee of the department may reveal:

A. information obtained through the administration of a law not subject to administration and enforcement under the provisions of the Tax Administration Act to the extent that revealing that information is not otherwise prohibited by law;

B. return information with respect to the taxes or tax acts administered pursuant to Subsection B of Section 7-1-2 NMSA 1978, except that:

(1) return information for or relating to a period prior to July 1, 1985 with respect to the Resources Excise Tax Act and the Severance Tax Act may be revealed only to a committee of the legislature for a valid legislative purpose;

(2) except as provided in Paragraph (3) of this subsection, contracts and other agreements between the taxpayer and other parties and the proprietary information contained in those contracts and agreements shall not be revealed without the consent of all parties to the contract or agreement; and

(3) audit workpapers and the proprietary information contained in the workpapers shall not be revealed except to:

(a) the bureau of safety and environmental enforcement of the United States department of the interior, if production occurred on federal land;

(b) a person having a legal interest in the property that is subject to the audit;

(c) a purchaser of products severed from a property subject to the audit; or

(d) the authorized representative of any of the persons in Subparagraphs (a) through (c) of this paragraph. This paragraph does not prohibit the revelation of proprietary information contained in the workpapers that is also available

from returns or from other sources not subject to the provisions of Section 7-1-8 NMSA 1978;

C. return information with respect to the taxes, surtaxes, advance payments or tax acts administered pursuant to Subsection C of Section 7-1-2 NMSA 1978;

D. a decision and order made by a hearing officer pursuant to the provisions of the Administrative Hearings Office Act with respect to a protest filed with the secretary on or after July 1, 1993;

E. any written ruling on questions of evidence or procedure made by a hearing officer pursuant to the provisions of the Administrative Hearings Office Act; provided that the name and identification number of the taxpayer requesting the ruling shall not be revealed; and

F. return information included in a notice of lien or release or extinguishment of lien."

Chapter 73 Section 13 Laws 2015

SECTION 13. Section 7-1-8.4 NMSA 1978 (being Laws 2009, Chapter 243, Section 6) is amended to read:

"7-1-8.4. INFORMATION THAT MAY BE REVEALED TO JUDICIAL BODIES OR WITH RESPECT TO JUDICIAL PROCEEDINGS OR INVESTIGATIONS AND TO ADMINISTRATIVE HEARINGS OFFICE.--An employee of the department may reveal to:

A. a district court, an appellate court or a federal court, a return or return information:

(1) in response to an order thereof in an action relating to taxes or an action for tax fraud or any other crime that may involve taxes due to the state and in which the information sought is about a taxpayer that is party to the action and is material to the inquiry, in which case only that information may be required to be produced in court and admitted in evidence subject to court order protecting the confidentiality of the information and no more;

(2) in an action in which the department is attempting to enforce an act with which the department is charged or to collect a tax; or

(3) in any matter in which the department is a party and the taxpayer has put the taxpayer's own liability for taxes at issue, in which case only that information regarding the taxpayer that is party to the action may be produced, but this

shall not prevent revelation of department policy or interpretation of law arising from circumstances of a taxpayer that is not a party;

B. the Bernalillo county metropolitan court, upon that court's request, the last known address and the date of that address for every person the court certifies to the department as a person who owes fines, fees or costs to the court or who has failed to appear pursuant to a court order or a promise to appear;

C. a magistrate court, upon the magistrate court's request, the last known address and the date of that address for every person the court certifies to the department as a person who owes fines, fees or costs to the court or who has failed to appear pursuant to a court order or a promise to appear;

D. a district attorney, a state district court grand jury or federal grand jury, information for an investigation of or proceeding related to an alleged criminal violation of the tax laws;

E. a third party subject to a subpoena or levy issued pursuant to the provisions of the Tax Administration Act, the identity of the taxpayer involved, the taxes or tax acts involved and the nature of the proceeding; and

F. the administrative hearings office, information in relation to a protest or other hearing, in which case only that information regarding the taxpayer that is a party to the action may be produced, but this shall not prevent revelation of department policy or interpretation of law arising from circumstances of a taxpayer that is not a party. The office shall maintain confidentiality regarding taxpayer information as required by the provisions of Section 7-1-8 NMSA 1978."

Chapter 73 Section 14 Laws 2015

SECTION 14. Section 7-1-22 NMSA 1978 (being Laws 1965, Chapter 248, Section 24, as amended) is amended to read:

"7-1-22. EXHAUSTION OF ADMINISTRATIVE REMEDIES.--No court of this state has jurisdiction to entertain any proceeding by a taxpayer in which the taxpayer calls into question the taxpayer's liability for any tax or the application to the taxpayer of any provision of the Tax Administration Act, except as a consequence of the appeal by the taxpayer to the court of appeals from the order of a hearing officer, or except as a consequence of a claim for refund as specified in Section 7-1-26 NMSA 1978."

Chapter 73 Section 15 Laws 2015

SECTION 15. Section 7-1-24 NMSA 1978 (being Laws 1965, Chapter 248, Section 26, as amended) is amended to read:

"7-1-24. DISPUTING LIABILITIES--ADMINISTRATIVE PROTEST.--

A. A taxpayer may dispute:

(1) the assessment to the taxpayer of any amount of tax;

(2) the application to the taxpayer of any provision of the Tax Administration Act except the issuance of a subpoena or summons; or

(3) the denial of or failure either to allow or to deny a:

(a) credit or rebate; or

(b) claim for refund made in accordance with Section 7-1-26

NMSA 1978.

B. The taxpayer may dispute a matter described in Subsection A of this section by filing with the secretary a written protest. Every protest shall identify the taxpayer and the tax credit, rebate, property or provision of the Tax Administration Act involved and state the grounds for the taxpayer's protest and the affirmative relief requested. The statement of grounds for protest shall specify individual grounds upon which the protest is based and a summary statement of the evidence, if any, expected to be produced supporting each ground asserted; provided that the taxpayer may supplement the statement at any time prior to ten days before the hearing conducted on the protest pursuant to the provisions of 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. In the case of an assessment of tax by the department, a protest may be filed without making payment of the amount assessed.

C. A protest by a taxpayer shall be filed within ninety days of the date of the mailing to or service upon the taxpayer by the department of the notice of assessment or other preemptory notice or demand, the date of mailing or filing a return, the date of the application to the taxpayer of the applicable provision of the Tax Administration Act, 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. If a protest is not filed within the time required, the secretary may proceed to enforce collection of any tax if the taxpayer is delinquent within the meaning of Section 7-1-16 NMSA 1978. The fact that the department did not mail the assessment or other preemptory 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.

D. No proceedings other than those to enforce collection of an amount assessed as tax and to protect the interest of the state by injunction, as provided in 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, are stayed by timely filing of a protest pursuant to the provisions of this section.

E. 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 73 Section 16 Laws 2015

SECTION 16. Section 7-1-25 NMSA 1978 (being Laws 1965, Chapter 248, Section 27, as amended) is amended to read:

"7-1-25. APPEALS FROM HEARING OFFICER'S DECISION AND ORDER.--

A. If the protestant or secretary is dissatisfied with the decision and order of the hearing officer, the party may appeal to the court of appeals for further relief, but only to the same extent and upon the same theory as was asserted in the hearing before the hearing officer. All such appeals shall be upon the record made at the hearing and shall not be de novo. All such appeals to the court of 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 protestant, and, if not so taken, the decision and order are conclusive.

B. The procedure for perfecting an appeal under this section to the court of appeals shall be as provided by the Rules of Appellate Procedure.

C. Upon appeal, the court shall set aside a decision and order of the hearing officer only if 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 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 protestant. If the decision upholds the hearing officer's decision only in part, the award shall be limited to reasonable attorney fees associated with the portion upheld."

Chapter 73 Section 17 Laws 2015

SECTION 17. 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 any credit or rebate claimed or who claims a prior right to property in the possession of the department pursuant to a levy made under authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim a refund by directing to the secretary, within the time limited by the provisions of Subsections D and E of this section, a written claim for refund. Except as provided in Subsection I of this section, a refund claim shall include:

(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 refund, the period for which overpayment was made; and

(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".

B. The secretary or the secretary's delegate may allow the claim in whole or in part or may deny the claim.

(1) If the claim is denied in whole or in part in writing, no claim may be refiled with respect to that which was denied, 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 one, but not more than one, of the remedies in Subsection C of this section.

(2) If the department has neither granted nor denied any portion of a claim for refund within one hundred twenty days of the date the claim was mailed or delivered to the department, the person may refile it within the time limits set forth in Subsection D of this section or may within ninety days elect to pursue one, but only one, of the remedies in Subsection C of this section. After the expiration of the two hundred ten days from the date the claim was mailed or delivered to the department, the department may not approve or disapprove the claim unless the person has pursued one of the remedies under Subsection C of this section.

C. A person may elect to pursue no more than one of the remedies in Paragraphs (1) and (2) of this subsection. A person who timely pursues more than one remedy shall be deemed to have elected the first remedy invoked. The person may:

(1) direct to the secretary, pursuant to the provisions of Section 7-1-24 NMSA 1978, a written protest that shall set 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) demanding the refund to the taxpayer of that amount or that property; and

(d) reciting 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.

D. Except as otherwise provided in Subsection E of this section, no credit or refund of any amount may be allowed or made to any person unless as the result of a claim made by that person as provided in this section:

(1) within three years of the end of the calendar year in which:

(a) the payment was originally due or the overpayment resulted from an assessment by the department pursuant to Section 7-1-17 NMSA 1978, whichever is later;

(b) the final determination of value occurs with respect to any overpayment that resulted from a disapproval by any agency of the United States or the state of New Mexico or any court of increase in value of a product subject to taxation under the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act or the Natural Gas Processors Tax Act;

(c) property was levied upon pursuant to the provisions of the Tax Administration Act; or

(d) an overpayment of New Mexico tax resulted from: 1) an internal revenue service audit adjustment or a federal refund paid due to an adjustment of an audit by the internal revenue service or an amended federal return; or 2) making a

change to a federal return for which federal approval is required by the Internal Revenue Code;

(2) when an amount of a claim for credit under the provisions of the Investment Credit Act, Laboratory Partnership with Small Business Tax Credit Act or Technology Jobs Tax Credit Act or for the rural job tax credit pursuant to Section 7-2E-1.1 NMSA 1978 or similar credit has been denied, the taxpayer may claim a refund of the credit no later than one year after the date of the denial;

(3) when a taxpayer under audit by the department 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, the taxpayer may file a claim for refund of the same tax paid for the same period for which the waiver was given, 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) if the payment of an amount of tax was 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, a claim for refund of that amount of tax can be made within one year of the date on which the tax was paid; or

(5) when a taxpayer has been assessed a tax on or after July 1, 1993 under Subsection B, C or D of Section 7-1-18 NMSA 1978 and when the assessment applies to a period ending at least three years prior to the beginning of the year in which the assessment was made, the taxpayer may claim 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.

E. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section 7-13-11 NMSA 1978 unless notice of the destruction of the gasoline was given 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 any person claiming a refund of gasoline tax under Section 7-13-17 NMSA 1978 unless the refund is claimed within six months of the date of purchase of the gasoline and the gasoline has been used at the time the claim for refund is made.

F. 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, 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, provided that the taxpayer files a claim for refund for the overpayments identified in the audit.

G. Any refund of tax paid under any tax or tax act administered under Subsection B of Section 7-1-2 NMSA 1978 may be made, at the discretion of the

department, in the form of credit against future tax payments if future tax liabilities in an amount at least equal to the credit amount reasonably may be expected to become due.

H. 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.

I. The filing of a fully completed original income tax return, corporate income tax return, corporate income and franchise tax return, estate tax return or special fuel excise tax return that shows a balance due the taxpayer or a fully completed amended income tax return, an amended corporate income tax return, an amended corporate income and franchise tax return, an amended estate tax return, an amended special fuel excise tax return or an amended oil and gas tax return that shows a lesser tax liability than the original return constitutes the filing of a claim for refund for the difference in tax due shown on the original and amended returns."

Chapter 73 Section 18 Laws 2015

SECTION 18. Section 7-1-29.1 NMSA 1978 (being Laws 2003, Chapter 398, Section 12) is amended to read:

"7-1-29.1. AWARDING OF COSTS AND FEES.--

A. In any administrative or court proceeding that is brought by or against the taxpayer on or after July 1, 2003 in connection with the determination, collection or refund of any tax, interest or penalty for a tax governed by the provisions of the Tax Administration Act, the taxpayer shall be awarded a judgment or a settlement for reasonable administrative costs incurred in connection with an administrative proceeding with the department or the administrative hearings office or reasonable litigation costs incurred in connection with a court proceeding, if the taxpayer is the prevailing party.

B. As used in this section:

(1) "administrative proceeding" means any procedure or other action before the department or the administrative hearings office;

(2) "court proceeding" means any civil action brought in state district court;

(3) "reasonable administrative costs" means:

(a) any administrative fees or similar charges imposed by the department or the administrative hearings office; and

(b) actual charges for: 1) filing fees, court reporter fees, service of process fees and similar expenses; 2) the services of expert witnesses; 3) any study, analysis, report, test or project reasonably necessary for the preparation of the party's case; and 4) fees and costs paid or incurred for the services in connection with the proceeding of attorneys or of certified public accountants who are authorized to practice in the context of an administrative proceeding; and

(4) "reasonable litigation costs" means:

(a) reasonable court costs; and

(b) actual charges for: 1) filing fees, court reporter fees, service of process fees and similar expenses; 2) the services of expert witnesses; 3) any study, analysis, report, test or project reasonably necessary for the preparation of the party's case; and 4) fees and costs paid or incurred for the services of attorneys in connection with the proceeding.

C. For purposes of this section:

(1) the taxpayer is the prevailing party if the taxpayer has:

(a) substantially prevailed with respect to the amount in controversy; or

(b) substantially prevailed with respect to most of the issues involved in the case or the most significant issue or set of issues involved in the case;

(2) the taxpayer shall not be treated as the prevailing party if, prior to July 1, 2015, the department establishes or, on or after July 1, 2015, the hearing officer finds that the position of the department in the proceeding was based upon a reasonable application of the law to the facts of the case. For purposes of this paragraph, the position of the department shall be presumed not to be based upon a reasonable application of the law to the facts of the case if:

(a) the department did not follow applicable published guidance in the proceeding; or

(b) the assessment giving rise to the proceeding is not supported by substantial evidence determined at the time of the issuance of the assessment;

(3) as used in Subparagraph (a) of Paragraph (2) of this subsection, "applicable published guidance" means:

(a) department or administrative hearings office regulations, information releases, instructions, notices, technical advice memoranda and announcements; and

(b) private letter rulings and letters issued by the department to the taxpayer; and

(4) the determination of whether the taxpayer is the prevailing party and the amount of reasonable litigation costs or reasonable administrative costs shall be made by agreement of the parties or:

(a) in the case where the final determination with respect to the tax, interest or penalty is made in an administrative proceeding, by the hearing officer; or

(b) in the case where the final determination is made by the court, the court.

D. An order granting or denying in whole or in part an award for reasonable litigation costs pursuant to Subsection A of this section in a court proceeding may be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment. A decision or order granting or denying in whole or in part an award for reasonable administrative costs pursuant to Subsection A of this section by a hearing officer shall be reviewable in the same manner as a decision of a hearing officer.

E. No agreement for or award of reasonable administrative costs or reasonable litigation costs in any administrative or court proceeding pursuant to Subsection A of this section shall exceed the lesser of twenty percent of the amount of the settlement or judgment or fifty thousand dollars (\$50,000). A taxpayer awarded administrative litigation costs pursuant to this section may not receive an award of attorney fees pursuant to Subsection D of Section 7-1-25 NMSA 1978."

Chapter 73 Section 19 Laws 2015

SECTION 19. Section 7-38-21 NMSA 1978 (being Laws 1973, Chapter 258, Section 61, as amended) is amended to read:

"7-38-21. PROTESTS--ELECTION OF REMEDIES.--

A. A property owner may protest the value or classification determined 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:

with: (1) filing, as provided in the Property Tax Code, a petition of protest

(a) the administrative hearings office; or

(b) the county assessor; 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 73 Section 20 Laws 2015

SECTION 20. 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 DIVISION.--

A. A property owner may protest the value or classification determined by the division for the property owner's property for property taxation purposes or the division'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 the mailing by the division of the notice of valuation;

(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 director 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. The notice shall be mailed at least fifteen days prior to the hearing date.

D. The director may provide for an informal conference on the protest before the hearing."

Chapter 73 Section 21 Laws 2015

SECTION 21. Section 7-38-23 NMSA 1978 (being Laws 1973, Chapter 258, Section 63, as amended) is amended to read:

"7-38-23. PROTEST HEARINGS--VERBATIM RECORD--ACTION BY HEARING OFFICER--TIME LIMITATIONS.--

A. Except for the rules relating to discovery, the technical rules of evidence and the Rules of Civil Procedure for the District Courts do not apply at a protest hearing conducted pursuant to the provisions of the Property Tax Code, but the hearing shall be conducted so that an ample opportunity is provided for the presentation of complaints and defenses. All testimony shall be taken under oath. A verbatim record of the hearings shall be made but need not be transcribed unless required for appeal purposes. A hearing officer shall be designated by the chief hearing officer of the administrative hearings office to conduct the hearing.

B. Final action taken by the hearing officer on a petition shall be by written order. The hearing officer's order shall be made within thirty days after the date of the hearing, but this time limitation may be extended by agreement of the department and the protestant. A copy of the order shall be sent immediately by certified mail to the property owner. A copy of the order shall also be sent to the county assessor.

C. All protests shall be decided within one hundred twenty days of the date the protest is filed unless the parties otherwise agree. The protest shall be denied if the property owner or the property owner's authorized representative fails, without reasonable justification, to appear at the hearing.

D. The hearing officer's order shall be in the name of the chief hearing officer, dated, state the changes to be made in the valuation records, if any, and direct the county assessor to take appropriate action. The department shall make any changes in its valuation records required by the order.

E. Changes in the valuation records shall clearly indicate that the prior entry has been superseded by an order of the hearing officer.

F. The department shall maintain a file of all orders made pursuant to this section. The file shall be open for public inspection.

G. If an order of the hearing officer is appealed under Section 7-38-28 NMSA 1978, the department shall immediately notify the appropriate county assessor of the appeal. Notations shall be made in the valuation records of the assessor and the department indicating the pendency of the appeal."

Chapter 73 Section 22 Laws 2015

SECTION 22. 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 HEARING OFFICER OR COUNTY VALUATION PROTESTS BOARDS.--

A. A property owner may appeal an order made by a hearing officer or a county valuation protests board by filing an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

B. The director shall notify the appropriate county assessor of the decision and order of the district court and shall direct the assessor to take appropriate action to comply with the decision and order."

Chapter 73 Section 23 Laws 2015

SECTION 23. Section 9-11-6.2 NMSA 1978 (being Laws 1995, Chapter 31, Section 3) is amended to read:

"9-11-6.2. ADMINISTRATIVE REGULATIONS, RULINGS, INSTRUCTIONS AND ORDERS--PRESUMPTION OF CORRECTNESS.--

A. The secretary is empowered and directed to issue and file as required by law all regulations, rulings, instructions or orders necessary to implement and enforce any provision of any law the administration and enforcement of which the department, the secretary, any division of the department or any director of any division of the department is charged, including all rules and regulations necessary by reason of any alteration of any such law. In order to accomplish its purpose, this provision is to be liberally construed.

B. Directives issued by the secretary shall be in form substantially as follows:

(1) regulations shall be written statements of the secretary of general application, interpreting and exemplifying the statutes to which they relate;

(2) rulings shall be written statements of the secretary, of limited application to one or a small number of persons, interpreting the statutes to which they relate, ordinarily issued in response to a request for clarification of the consequences of a specified set of circumstances;

(3) orders shall be written statements of the secretary or delegate of the secretary to implement a decision after a hearing; and

(4) instructions shall be other written statements or directives of the secretary or secretary's delegate not dealing with the merits of any law but otherwise in aid of the accomplishment of the duties of the secretary.

C. To be effective, any ruling or regulation issued by the secretary shall be reviewed by the attorney general or other legal counsel of the department prior to being filed as required by law, and the fact of the review shall be indicated on the ruling or regulation.

D. To be effective, a regulation shall first be issued as a proposed regulation and filed for public inspection in the office of the secretary. Unless otherwise provided by statute, no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the 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 regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested parties may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be published at least thirty days prior to the hearing date in the New Mexico register 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. After the proposed regulation has been on file for not less than sixty days and a public hearing on the proposed action has been held by the secretary or a hearing officer designated by the secretary, the secretary may issue it as a final regulation by signing the regulation and filing the regulation in the manner required by law. The secretary shall not delegate the authority to sign regulations.

E. In addition to filing copies of regulations with the state records administrator as required by law, the secretary shall maintain in the office of the secretary a duplicate official set of current and superseded regulations, a set of current and superseded rulings and such additional sets of those regulations and rulings as appear necessary, which duplicate or additional sets shall be available for inspection by the public, but superseded regulations need be maintained for no longer than ten years from the date of supersession.

F. The secretary shall develop and maintain a file of names and addresses of individuals and professional and industry groups having an interest in the promulgation of new, revised or proposed regulations. At convenient times, the secretary shall distribute to these persons all such regulations and all pertinent rulings, making such charges as will defray the expense incurred in their physical preparation and mailing. Such charges are appropriated to the department to defray the costs of preparing and distributing regulations and rulings.

G. Any regulation, ruling, instruction or order issued by the secretary or delegate of the secretary is presumed to be a proper implementation of the provisions of the laws that are charged to the department, the secretary, any division of the department or any director of any division of the department.

H. The extent to which regulations, rulings and orders will have retroactive effect shall be stated, and if no such statement is made, they will be applied prospectively only."

Chapter 73 Section 24 Laws 2015

SECTION 24. Section 13-1-22 NMSA 1978 (being Laws 1969, Chapter 184, Section 1, as amended) is amended to read:

"13-1-22. RESIDENT BUSINESS, RESIDENT VETERAN BUSINESS, RESIDENT CONTRACTOR AND RESIDENT VETERAN CONTRACTOR CERTIFICATION.--

A. To receive a resident business or resident veteran business preference pursuant to Section 13-1-21 NMSA 1978 or a resident contractor or resident veteran contractor preference pursuant to Section 13-4-2 NMSA 1978, a business or contractor shall submit with its bid or proposal a copy of a valid resident business certificate, valid resident veteran business certificate, valid resident contractor certificate or valid resident veteran contractor certificate issued by the taxation and revenue department.

B. An application for a resident business certificate shall include an affidavit from a certified public accountant setting forth that the business is licensed to do business in this state and that:

(1) the business has paid property taxes or rent on real property in the state and paid at least one other tax administered by the state in each of the three years immediately preceding the submission of the affidavit;

(2) if the business is a new business, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state in each of the three years immediately preceding the submission of the affidavit and has not applied for a resident business or resident contractor certificate pursuant to this section during that time period;

(3) if the business is a relocated business, at least eighty percent of the total personnel of the business in the year immediately preceding the submission of the affidavit were residents of the state and that, prior to the submission of the affidavit, the business either leased real property for ten years or purchased real property greater than one hundred thousand dollars (\$100,000) in value in the state; or

(4) if the business is a previously certified business or was eligible for certification, the business has changed its name, has reorganized into one or more different legal entities, was purchased by another legal entity but operates in the state as substantially the same commercial enterprise or has merged with a different legal entity but operates in the state as substantially the same commercial enterprise.

C. An application for a resident veteran business certificate shall include the affidavit required by Subsection B of this section, an affidavit from a certified public accountant providing the previous year's annual revenues of the resident veteran business and:

(1) verification by the federal department of veterans affairs as being either a veteran-owned small business or a service-disabled veteran-owned small business; or

(2) verification of veteran status as indicated by the United States department of defense DD form 214 of release or discharge from active duty with an honorable discharge or of service-disabled veteran status by the department of veterans affairs and proof that a veteran or veterans own a majority of the business.

D. An application for a resident contractor certificate shall include an affidavit from a certified public accountant setting forth that the contractor is currently licensed as a contractor in this state and that:

(1) the contractor has:

(a) registered with the state at least one vehicle; and

(b) in each of the five years immediately preceding the submission of the affidavit: 1) paid property taxes or rent on real property in the state and paid at least one other tax administered by the state; and 2) paid unemployment insurance on at least three full-time employees who are residents of the state; provided that if a contractor is a legacy contractor, the requirement of at least three full-time employees who are residents of the state is waived;

(2) if the contractor is a new contractor, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state in each of the five years immediately preceding the submission of the affidavit and has not applied for a resident business or resident contractor certificate pursuant to this section during that time period;

(3) if the contractor is a relocated business, at least eighty percent of the total personnel of the business in the year immediately preceding the submission of the affidavit were residents of the state and that, prior to the submission of the affidavit, the contractor either leased real property for ten years or purchased real property greater than one hundred thousand dollars (\$100,000) in value in the state; or

(4) if the contractor is a previously certified contractor or was eligible for certification, the contractor has changed its name, has reorganized into one or more different legal entities, was purchased by another legal entity but operates in the state as substantially the same enterprise or has merged with a different legal entity but operates in the state as substantially the same commercial enterprise.

E. An application for a resident veteran contractor certificate shall include the affidavit required by Subsection D of this section, an affidavit from a certified public accountant providing the previous year's annual revenues for the resident veteran contractor and:

(1) verification by the federal department of veterans affairs as being either a veteran-owned small business or a service-disabled veteran-owned small business; or

(2) verification of veteran status as indicated by the United States department of defense DD form 214 of release or discharge from active duty with an honorable discharge or of service-disabled veteran status by the department of veterans affairs and proof that a veteran or veterans own a majority of the business.

F. The taxation and revenue department shall prescribe the form and content of an application for certification and required affidavit. The taxation and revenue department shall examine the application and affidavit and, if necessary, may seek additional information to ensure that the business or contractor is eligible to receive the certificate pursuant to the provisions of this section. If the taxation and revenue department determines that an applicant is eligible, the department shall issue a certificate pursuant to the provisions of this section. If the taxation and revenue department determines that the applicant is not eligible, the department shall issue notification within thirty days. If no notification is provided by the department, the certificate is deemed approved. A certificate is valid for three years from the date of its issuance; provided that if there is a change of ownership of more than fifty percent, a resident business, resident veteran business, resident contractor or resident veteran contractor shall reapply for a certificate.

G. A business or contractor whose application for a certificate is denied has fifteen days from the date of the taxation and revenue department's decision to file an objection with the taxation and revenue department. The person filing the objection shall submit evidence to support the objection. The taxation and revenue department shall review the evidence and issue a decision within fifteen days of the filing of the objection.

H. If, following a hearing and an opportunity to be heard, the administrative hearings office finds that a business or contractor provided false information to the taxation and revenue department in order to obtain a certificate or that a business or contractor used a certificate to obtain a resident business, resident veteran business, resident contractor or resident veteran contractor preference for a bid or proposal and the resident business, resident veteran business, resident contractor or resident veteran contractor did not perform the percentage of the contract specified in the bid or proposal, the business or contractor:

(1) is not eligible to receive a certificate or a preference pursuant to Section 13-1-21 or 13-4-2 NMSA 1978 for a period of five years from the date on which the taxation and revenue department became aware of the submission of the false information or the failure to perform the contract as specified in the bid or proposal; and

(2) is subject to an administrative penalty of up to fifty thousand dollars (\$50,000) for each violation.

I. In a decision issued pursuant to Subsection G or H of this section, the taxation and revenue department or administrative hearings office shall state the reasons for the action taken and inform an aggrieved business or contractor of the right to judicial review of the determination pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

J. The taxation and revenue department may assess a reasonable fee for the issuance of a certificate not to exceed the actual cost of administering the taxation and revenue department's duties pursuant to this section.

K. The state auditor may audit or review the issuance or validity of certificates.

L. For purposes of this section:

(1) "new business" means a person that did not exist as a business in any form and that has been in existence for less than three years;

(2) "new contractor" means a person that did not exist as a business in any form and that has been in existence for less than five years;

(3) "legacy contractor" means a construction business that has been licensed in this state for ten consecutive years; and

(4) "relocated business" means a business that moved eighty percent of its total domestic personnel from another state to New Mexico in the past five years."

Chapter 73 Section 25 Laws 2015

SECTION 25. That version of Section 13-1-22 NMSA 1978 (being Laws 2012, Chapter 56, Section 4) that is to become effective July 1, 2022 is amended to read:

"13-1-22. RESIDENT BUSINESS AND RESIDENT CONTRACTOR CERTIFICATION.--

A. To receive a resident business preference pursuant to Section 13-1-21 NMSA 1978 or a resident contractor preference pursuant to Section 13-4-2 NMSA 1978, a business or contractor shall submit with its bid or proposal a copy of a valid resident business certificate or valid resident contractor certificate issued by the taxation and revenue department.

B. An application for a resident business certificate shall include an affidavit from a certified public accountant setting forth that the business is licensed to do business in this state and that:

(1) the business has paid property taxes or rent on real property in the state and paid at least one other tax administered by the state in each of the three years immediately preceding the submission of the affidavit;

(2) if the business is a new business, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state in each of the three years immediately preceding the submission of the affidavit and has not applied for a resident business or resident contractor certificate pursuant to this section during that time period;

(3) if the business is a relocated business, at least eighty percent of the total personnel of the business in the year immediately preceding the submission of the affidavit were residents of the state and that, prior to the submission of the affidavit, the business either leased real property for ten years or purchased real property greater than one hundred thousand dollars (\$100,000) in value in the state; or

(4) if the business is a previously certified business or was eligible for certification, the business has changed its name, has reorganized into one or more different legal entities, was purchased by another legal entity but operates in the state as substantially the same commercial enterprise or has merged with a different legal entity but operates in the state as substantially the same commercial enterprise.

C. An application for a resident contractor certificate shall include an affidavit from a certified public accountant setting forth that the contractor is currently licensed as a contractor in this state and that:

(1) the contractor has:

(a) registered with the state at least one vehicle; and

(b) in each of the five years immediately preceding the submission of the affidavit: 1) paid property taxes or rent on real property in the state and paid at least one other tax administered by the state; and 2) paid unemployment insurance on at least three full-time employees who are residents of the state; provided that if a contractor is a legacy contractor, the requirement of at least three full-time employees who are residents of the state is waived;

(2) if the contractor is a new contractor, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state in each of the five years immediately preceding the submission of the affidavit and has not applied for a resident business or resident contractor certificate pursuant to this section during that time period;

(3) if the contractor is a relocated business, at least eighty percent of the total personnel of the business in the year immediately preceding the submission of the affidavit were residents of the state and that, prior to the submission of the affidavit, the contractor either leased real property for ten years or purchased real property greater than one hundred thousand dollars (\$100,000) in value in the state; or

(4) if the contractor is a previously certified contractor or was eligible for certification, the contractor has changed its name, has reorganized into one or more different legal entities, was purchased by another legal entity but operates in the state as substantially the same enterprise or has merged with a different legal entity but operates in the state as substantially the same commercial enterprise.

D. The taxation and revenue department shall prescribe the form and content of the application and required affidavit. The taxation and revenue department shall examine the application and affidavit and, if necessary, may seek additional information to ensure that the business or contractor is eligible to receive the certificate pursuant to the provisions of this section. If the taxation and revenue department determines that an applicant is eligible, the department shall issue a certificate pursuant to the provisions of this section. If the taxation and revenue department determines that the applicant is not eligible, the department shall issue notification within thirty days. If no notification is provided by the department, the certificate is deemed approved. A certificate is valid for three years from the date of its issuance; provided that if there is a change of ownership of more than fifty percent, a resident business or resident contractor shall reapply for a certificate.

E. A business or contractor whose application for a certificate is denied has fifteen days from the date of the taxation and revenue department's decision to file an objection with the taxation and revenue department. The person filing the objection shall submit evidence to support the objection. The taxation and revenue department shall review the evidence and issue a decision within fifteen days of the filing of the objection.

F. If, following a hearing and an opportunity to be heard, the administrative hearings office finds that a business or contractor provided false information to the taxation and revenue department in order to obtain a certificate or that a business or contractor used a certificate to obtain a resident business or resident contractor preference for a bid or proposal and the resident business or contractor did not perform the percentage of the contract specified in the bid or proposal, the business or contractor:

(1) is not eligible to receive a certificate or a preference pursuant to Section 13-1-21 or 13-4-2 NMSA 1978 for a period of five years from the date on which the taxation and revenue department became aware of the submission of the false information or the failure to perform the contract as specified in the bid or proposal; and

(2) is subject to an administrative penalty of up to fifty thousand dollars (\$50,000) for each violation.

G. In a decision issued pursuant to Subsection E or F of this section, the taxation and revenue department or the administrative hearings office shall state the reasons for the action taken and inform an aggrieved business or contractor of the right to judicial review of the determination pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

H. The taxation and revenue department may assess a reasonable fee for the issuance of a certificate not to exceed the actual cost of administering the taxation and revenue department's duties pursuant to this section.

I. The state auditor may audit or review the issuance or validity of certificates.

J. For purposes of this section:

(1) "new business" means a person that did not exist as a business in any form and that has been in existence for less than three years;

(2) "new contractor" means a person that did not exist as a business in any form and that has been in existence for less than five years;

(3) "legacy contractor" means a construction business that has been licensed in this state for ten consecutive years; and

(4) "relocated business" means a business that moved eighty percent of its total domestic personnel from another state to New Mexico in the past five years."

Chapter 73 Section 26 Laws 2015

SECTION 26. Section 40-5A-6 NMSA 1978 (being Laws 1995, Chapter 25, Section 6, as amended) is amended to read:

"40-5A-6. SUSPENSION OR REVOCATION OF LICENSE.--The failure of a licensee to be in compliance with a judgment and order for support or subpoena or warrants relating to paternity or child support proceedings is grounds for suspension or revocation of a license. The proceeding shall be conducted by a board or the administrative hearings office pursuant to the law governing suspension and revocation proceedings for the license."

Chapter 73 Section 27 Laws 2015

SECTION 27. Section 66-2-11 NMSA 1978 (being Laws 1978, Chapter 35, Section 15, as amended) is amended to read:

"66-2-11. GIVING OF NOTICE.--Whenever the department or the administrative hearings office is authorized or required to give any notice under the Motor Vehicle Code or any other law regulating the operation of vehicles, unless a different method of giving notice is otherwise expressly prescribed, notice shall be given either by personal delivery to the person to be notified or by deposit in the United States mail of the notice in an envelope with postage prepaid, addressed to the person at the person's address as shown by the records of the department. The giving of notice by mail is complete upon the expiration of seven days after deposit of the notice. Proof of the giving of notice in either manner may be made by the certificate of any officer or employee of the department or affidavit of any person over eighteen years of age, naming the person to whom the notice was given and specifying the time, place and manner of the giving of the notice. Notice is given when a person refuses to accept notice."

Chapter 73 Section 28 Laws 2015

SECTION 28. Section 66-2-17 NMSA 1978 (being Laws 1995, Chapter 129, Section 3) is amended to read:

"66-2-17. ADMINISTRATIVE HEARING--PROCEDURE.--

A. Unless a more specific provision for review exists, any person may dispute the denial of, or failure to either allow or deny, any license, permit, placard or registration provided for under the Motor Vehicle Code by filing with the secretary a written protest against the action or inaction by the department. Every protest shall identify the person and the action or inaction that is in dispute, the grounds for the protest and the affirmative relief requested. The statement of grounds for protest shall specify individual grounds upon which the protest is based and a summary statement of the evidence expected to be produced supporting each ground asserted, if any; provided that the person may supplement the statement at any time prior to a hearing conducted on the protest pursuant to the provisions of the Administrative Hearings

Office Act. The secretary may, in appropriate cases, provide for an informal conference before the administrative hearings office sets a hearing of the protest.

B. Any protest by a person shall be filed within thirty days of the date of the mailing or verbal notification of the action proposed to be taken by the department. If a protest is not filed within the time required for filing a protest, the secretary may proceed with the action proposed by the department."

Chapter 73 Section 29 Laws 2015

SECTION 29. Section 66-4-3 NMSA 1978 (being Laws 1978, Chapter 35, Section 216, as amended) is amended to read:

"66-4-3. REFUSAL TO ISSUE LICENSE--CANCELLATION OR SUSPENSION OF LICENSE OR USE OF TEMPORARY PERMITS--HEARING--APPEAL.--

A. The department may refuse to issue a license for just cause and may cancel or suspend a license or use of a temporary registration permit, demonstration permit or transport permit for violation of the Motor Vehicle Code. The action authorized in this section shall be taken only after a hearing before the administrative hearings office. Within ten days after completion of the hearing, the hearing officer designated to conduct the hearing shall cause to be served upon all parties, in the manner provided in Section 66-2-11 NMSA 1978, the hearing officer's findings and decision. The decision shall be:

(1) granting a license or refusing to grant a license;

(2) continuing a license, canceling a license or suspending a license for a time stated; or

(3) continuing use of dealer plates and temporary registration permits, demonstration permits or transport permits, canceling dealer plates and temporary registration permits, demonstration permits or transport permits or suspending use of temporary registration permits, demonstration permits or transport permits for a time stated.

B. A party aggrieved by the hearing officer's decision may file an appeal in the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

Chapter 73 Section 30 Laws 2015

SECTION 30. 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 driver's license or a provisional 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-five 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 health standards advisory board created pursuant to the provisions of Section 66-5-6 NMSA 1978 shall evaluate the extent of the visual impairment and the impairment's effect on the driving ability of the applicant and, based on the board's recommendations, 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, 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.

F. 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 73 Section 31 Laws 2015

SECTION 31. 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;

(9) has failed to fulfill a signed promise to appear or notice to appear in court as evidenced by notice from a state court or tribal court, whenever appearance is required by law or by the court as a consequence of a charge or conviction under the Motor Vehicle Code or pursuant to the laws of the tribe;

(10) has failed to pay a penalty assessment within thirty days of the date of issuance by the state or a tribe; or

(11) has accumulated seven points, but less than eleven points, and when the division has received a recommendation from a municipal or magistrate judge that the license be suspended for a period not to exceed three months.

B. Upon suspending the license of a person as authorized in this section, the division shall immediately notify the licensee in writing of the licensee's right to a hearing before the administrative hearings office and, upon the licensee's request, shall notify the administrative hearings office. The administrative hearings office shall schedule the hearing to take place as early as practicable, but within no more than

twenty days, not counting Saturdays, Sundays and legal holidays after receipt of the request. The hearing shall be held in the county in which the licensee resides unless the hearing officer and the licensee agree that the hearing may be held in some other county; provided that the hearing request is received within twenty days from the date that the suspension was deposited in the United States mail. The hearing officer may, in the hearing officer's discretion, extend the twenty-day period. The hearing shall be held as provided in the Administrative Hearings Office Act. After the hearing, the hearing officer shall either rescind the order of suspension or continue, modify or extend the suspension of the license or revoke the license."

Chapter 73 Section 32 Laws 2015

SECTION 32. Section 66-5-204 NMSA 1978 (being Laws 1983, Chapter 318, Section 5, as amended) is amended to read:

"66-5-204. ADMINISTRATIVE AND COURT REVIEW.--An owner of a motor vehicle registered in New Mexico who is aggrieved by the decision of the secretary made under the provisions of the Mandatory Financial Responsibility Act may appeal to the administrative hearings office for a hearing to be held within twenty days after the receipt by the administrative hearings office of the appeal. A person who continues to be aggrieved after the decision made by the hearing officer may appeal that decision in the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

Chapter 73 Section 33 Laws 2015

SECTION 33. Section 66-5-236 NMSA 1978 (being Laws 1983, Chapter 318, Section 35, as amended) is amended to read:

"66-5-236. SUSPENSION FOR NONPAYMENT OF JUDGMENT OR FOR FALSE AFFIRMATION.--

A. Except as otherwise provided, the secretary shall suspend:

(1) the motor vehicle registration for all motor vehicles and the driver's license of any person against whom a judgment has been rendered, the department being in receipt of a certified copy of the judgment on a form provided by the department; or

(2) the registration for a period not to exceed one year of a person who is operating a motor vehicle in violation of Section 66-5-205 NMSA 1978 or falsely affirms the existence of a motor vehicle insurance policy or some other means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act, but only if evidence of financial responsibility is not submitted within twenty days after the date of the mailing of the department's demand for that evidence. The department shall notify the person that the person may request a hearing before

the administrative hearings office within twenty days after the date of the mailing of the department's demand.

B. The registration shall remain suspended and shall not be renewed, nor shall any registration be issued thereafter in the name of that person, unless and until every judgment is stayed, satisfied in full or to the extent provided in the Mandatory Financial Responsibility Act and evidence of financial responsibility as required in Section 66-5-218 NMSA 1978 is provided to the department."

Chapter 73 Section 34 Laws 2015

SECTION 34. Section 66-8-111.1 NMSA 1978 (being Laws 1984, Chapter 72, Section 7, as amended by Laws 2003, Chapter 51, Section 14 and by Laws 2003, Chapter 90, Section 7) is amended to read:

"66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR DEPARTMENT--WRITTEN NOTICE OF REVOCATION AND RIGHT TO HEARING.--On behalf of the department, a law enforcement officer requesting a chemical test or directing the administration of a chemical test pursuant to Section 66-8-107 NMSA 1978 shall serve immediate written notice of revocation and of right to a hearing before the administrative hearings office pursuant to the Implied Consent Act on a person who refuses to permit chemical testing or on a person who submits to a chemical test the results of which indicate an alcohol concentration in the person's blood or breath of eight one hundredths or more if the person is twenty-one years of age or older, four one hundredths or more if the person is driving a commercial motor vehicle or two one hundredths or more if the person is less than twenty-one years of age. Upon serving notice of revocation, the law enforcement officer shall take the license or permit of the driver, if any, and issue a temporary license valid for twenty days or, if the driver requests a hearing pursuant to Section 66-8-112 NMSA 1978, valid until the date the administrative hearings office issues the order following that hearing; provided that a temporary license shall not be issued to a driver without a valid license or permit. The law enforcement officer shall send the person's driver's license to the department along with the signed statement required pursuant to Section 66-8-111 NMSA 1978."

Chapter 73 Section 35 Laws 2015

SECTION 35. Section 66-8-112 NMSA 1978 (being Laws 1978, Chapter 35, Section 520, as amended by Laws 2003, Chapter 51, Section 15 and by Laws 2003, Chapter 90, Section 8) is amended to read:

"66-8-112. REVOCATION OF LICENSE OR PRIVILEGE TO DRIVE--NOTICE--EFFECTIVE DATE--HEARING--HEARING COSTS--REVIEW.--

A. The effective date of revocation pursuant to Section 66-8-111 NMSA 1978 is twenty days after notice of revocation or, if the person whose driver's license or privilege to drive is being revoked or denied requests a hearing pursuant to the

Administrative Hearings Office Act, the date that the administrative hearings office issues the order following that hearing. The date of notice of revocation is:

(1) the date the law enforcement officer serves written notice of revocation and of right to a hearing pursuant to Section 66-8-111.1 NMSA 1978; or

(2) in the event the results of a chemical test cannot be obtained immediately, the date notice of revocation is served by mail by the department. This notice of revocation and of right to a hearing shall be sent by certified mail and shall be deemed to have been served on the date borne by the return receipt showing delivery, refusal of the addressee to accept delivery or attempted delivery of the notice at the address obtained by the arresting law enforcement officer or on file with the department.

B. Within ten days after receipt of notice of revocation pursuant to Subsection A of this section, a person whose license or privilege to drive is revoked or denied or the person's agent may request a hearing. The hearing request shall be made in writing and shall be accompanied by a payment of twenty-five dollars (\$25.00) or a sworn statement of indigency on a form provided by the department. A standard for indigency shall be established pursuant to rules adopted by the department. Failure to request a hearing within ten days shall result in forfeiture of the person's right to a hearing. Any person less than eighteen years of age who fails to request a hearing within ten days shall have notice of revocation sent to the person's parent, guardian or custodian by the department. A date for the hearing shall be set by the administrative hearings office, if practical, within thirty days after receipt of notice of revocation. The hearing shall be held in the county in which the offense for which the person was arrested took place.

C. The administrative hearings office may postpone or continue any hearing on its own motion or upon application from the person and for good cause shown for a period not to exceed ninety days from the date of notice of revocation and, provided that, upon a continuance, the department shall extend the validity of the temporary license for the period of the postponement or continuation.

D. At the hearing, the administrative hearings office may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers.

E. The hearing shall be limited to the following issues:

(1) whether the law enforcement officer had reasonable grounds to believe that the person had been driving a motor vehicle within this state while under the influence of intoxicating liquor or drugs;

(2) whether the person was arrested;

(3) whether this hearing is held no later than ninety days after notice of revocation; and either

(4) whether:

(a) the person refused to submit to a test upon request of the law enforcement officer; and

(b) the law enforcement officer advised that the failure to submit to a test could result in revocation of the person's privilege to drive; or

(5) whether:

(a) the chemical test was administered pursuant to the provisions of the Implied Consent Act; and

(b) the test results indicated an alcohol concentration in the person's blood or breath of eight one hundredths or more if the person is twenty-one years of age or older, four one hundredths or more if the person is driving a commercial motor vehicle or two one hundredths or more if the person is less than twenty-one years of age.

F. The administrative hearings office shall enter an order sustaining the revocation or denial of the person's license or privilege to drive if the hearing officer from the administrative hearings office finds that:

(1) the law enforcement officer had reasonable grounds to believe the driver was driving a motor vehicle while under the influence of intoxicating liquor or drugs;

(2) the person was arrested;

(3) this hearing is held no later than ninety days after notice of revocation; and

(4) either:

(a) the person refused to submit to the test upon request of the law enforcement officer after the law enforcement officer advised the person that the person's failure to submit to the test could result in the revocation of the person's privilege to drive; or

(b) that a chemical test was administered pursuant to the provisions of the Implied Consent Act and the test results indicated an alcohol concentration in the person's blood or breath of eight one hundredths or more if the person is twenty-one years of age or older, four one hundredths or more if the person is

driving a commercial motor vehicle or two one hundredths or more if the person is less than twenty-one years of age.

G. If one or more of the elements set forth in Paragraphs (1) through (4) of Subsection F of this section are not found by the hearing officer, the person's license shall not be revoked.

H. A person adversely affected by an order of the administrative hearings office may seek review within thirty days in the district court in the county in which the offense for which the person was arrested took place. The district court, upon thirty days' written notice to the department, shall hear the case. On review, it is for the court to determine only whether reasonable grounds exist for revocation or denial of the person's license or privilege to drive based on the record of the administrative proceeding.

I. Any person less than eighteen years of age shall have results of the person's hearing forwarded by the administrative hearings office to the person's parent, guardian or custodian."

Chapter 73 Section 36 Laws 2015

SECTION 36. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS, STATUTORY REFERENCES AND RULES.--

A. On the effective date of this act, all personnel, functions, appropriations, money, records, furniture, equipment and other property of, or attributable to, the hearings bureau of the office of the secretary of taxation and revenue shall be transferred to the administrative hearings office.

B. On the effective date of this act, all contractual obligations of the hearings bureau of the office of the secretary of taxation and revenue shall be binding on the administrative hearings office.

C. On the effective date of this act, all references in statute to the hearings bureau of the office of the secretary of taxation and revenue or hearing officers of the taxation and revenue department in Chapters 7 and 66 NMSA 1978 shall be deemed to be references to the administrative hearings office or a hearing officer of the office.

D. Rules of the taxation and revenue department pertaining to hearing officers and the conduct of hearings pursuant to actions related to Chapter 7 or 66 NMSA 1978 shall be deemed to be the rules of the administrative hearings office until amended or repealed by the office.

Chapter 73 Section 37 Laws 2015

SECTION 37. REPEAL.--Section 7-1-24.1 NMSA 1978 (being Laws 2013, Chapter 27, Section 7) is repealed.

Chapter 73 Section 38 Laws 2015

SECTION 38. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 356, aa, w/cc

Approved April 7, 2015

LAWS 2015, CHAPTER 74

AN ACT

RELATING TO EDUCATION; AMENDING AND ENACTING SECTIONS OF THE SCHOOL PERSONNEL ACT TO STREAMLINE TEACHER ACCESS TO ADMINISTRATIVE LICENSURE.

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

Chapter 74 Section 1 Laws 2015

SECTION 1. 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. With the adoption by the department of a highly objective uniform statewide standard of evaluation for level three-A teachers, the minimum salary for a level three-A teacher for a standard nine and one-half month contract shall be fifty thousand dollars (\$50,000)."

Chapter 74 Section 2 Laws 2015

SECTION 2. A new section of the School Personnel Act is enacted to read:

"LEVEL THREE-B ADMINISTRATOR'S LICENSE--TRACKS FOR SCHOOL ADMINISTRATOR LICENSURE.--

A. A level three-B administrator's license is a five-year license granted to an applicant who meets the qualifications for that license. Licenses may be renewed upon satisfactory annual demonstration of instructional leader and administrative competency.

B. The department shall grant a level three-B administrator's license to an applicant who:

(1) has completed a department-approved administrator preparation program;

(2) holds a current level two or level three teacher's license; and

(3) holds a post-baccalaureate degree or national board for professional teaching standards certification.

C. The minimum annual salary for a licensed school principal or assistant school principal shall be fifty thousand dollars (\$50,000) multiplied by the applicable responsibility factor.

D. The department shall adopt a highly objective uniform statewide standard of evaluation, including data sources linked to student achievement and an educational plan for student success progress, for school principals and assistant school principals and rules for the implementation of that evaluation system linked to the level of responsibility at each school level.

E. As used in this section, "level three-B administrator's license" means a five-year license granted to an applicant who meets the qualifications pursuant to this section and department rules."

Chapter 74 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SFL/Senate Bills 153 & 126

Approved April 8, 2015

LAWS 2015, CHAPTER 75

AN ACT

RELATING TO PUBLIC SCHOOLS; ALLOWING SCHOOLS THAT IMPROVED THEIR GRADE RATING THROUGH THE K-3 PLUS PROGRAM TO CONTINUE WITH THE PROGRAM; DECLARING AN EMERGENCY.

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

Chapter 75 Section 1 Laws 2015

SECTION 1. Section 22-13-28 NMSA 1978 (being Laws 2007, Chapter 12, Section 1, as amended) is amended to read:

"22-13-28. K-3 PLUS--ELIGIBILITY--APPLICATION--REPORTING AND EVALUATION.--

A. The six-year K-3 plus pilot project has demonstrated that increased time in kindergarten and the early grades narrows the achievement gap between disadvantaged students and other students and increases cognitive skills and leads to higher test scores for all participants.

B. The "K-3 plus" program is created in the department to provide funding for additional educational time for students in kindergarten through third grade. K-3 plus shall be administered by the department and shall provide the funding for approved full-day kindergarten and grades one through three to be extended by at least twenty-five instructional days, beginning up to two months earlier than the regular school years.

C. K-3 plus shall be conducted upon application in high-poverty public schools, schools with a D or F grade the previous year or schools that improved their school grade with the K-3 plus program and wish to continue the program. For the purposes of K-3 plus, "high-poverty public school" means a public school in which eighty percent or more of the students are eligible for free or reduced-fee lunch at the time the public school applies for the program.

D. The department shall promulgate rules for application requirements and procedures and criteria for evaluating applications. In evaluating applications for K-3 plus, the department shall grant priority to those schools with research-based, scientific reading strategies and programs. An applicant shall demonstrate that its K-3 plus program will meet all department standards and employ only qualified teachers and other staff.

E. K-3 plus programs shall be funded at no less than thirty percent of the unit value per student. Up to two percent of the money received by a school district shall be used for student recruitment and to ensure regular attendance by K-3 plus students. Funding for individual school programs shall be based on enrollment on the fifteenth day of the program.

F. School districts and charter schools that meet the qualifications for K-3 plus funding may submit applications by March 15 for the succeeding fiscal year. The department shall notify all school districts and charter schools by February 1 that applications will be accepted until March 15 and that final funding is contingent on the final unit value set by the secretary. The notification shall include the application and any requirements for supplementary documentation. Applications may be submitted electronically or by mail or other delivery. Schools that are awarded funding for K-3 plus for the next school year shall be notified by April 15 of the calendar year.

G. The department shall provide additional professional development for K-3 plus teachers in how young children learn to read. Teachers and educational assistants shall be paid at the same rate and under the same terms for K-3 plus as teachers and educational assistants are paid for regular educational programs.

H. Students participating in K-3 plus shall be evaluated at the beginning of K-3 plus, and their progress shall be measured through department-approved summative and formative assessments.

I. The department shall establish reporting and evaluation requirements for participating schools, including student and program assessments. The department shall report annually to the legislature and the governor on the efficacy of K-3 plus.

J. The department may use up to four percent of any appropriation made by the legislature for K-3 plus for professional development for participating educators and department administrative costs.

K. The department shall develop and disseminate information on best practices in the areas of student recruitment, retention and academic success of early learners.

L. The secretary shall appoint a "K-3 plus advisory committee" composed of representatives of school districts that participate in K-3 plus and other stakeholders.

The advisory committee shall meet twice a year to advise the department on K-3 plus implementation."

Chapter 75 Section 2 Laws 2015

SECTION 2. APPLICABILITY.--For the summer 2015 K-3 plus program, the public education department may accept applications from schools that meet the requirements of Section 1 of this act and withhold its decision on the applications until the section becomes law.

Chapter 75 Section 3 Laws 2015

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

House Bill 479, aa, w/ec

Approved April 8, 2015

LAWS 2015, CHAPTER 76

AN ACT

RELATING TO TRADE PRACTICES; REQUIRING THE USE OF CHILD-RESISTANT PACKAGING FOR NICOTINE LIQUID; PROVIDING PENALTIES.

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

Chapter 76 Section 1 Laws 2015

SECTION 1. CHILD-RESISTANT PACKAGING FOR NICOTINE LIQUID.--

A. No person shall sell or offer to sell any nicotine liquid container at retail in this state unless such container is child-resistant.

B. The attorney general may institute a civil action in district court for a violation of the provisions of this section or to prevent a violation of the provisions of this section. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty not to exceed one thousand dollars (\$1,000) for each violation.

C. As used in this section:

(1) "child-resistant" means a package or container that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean a package or container that all such children cannot open or obtain a toxic or harmful amount within a reasonable time;

(2) "electronic delivery device" means any electronic device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine, the use or inhalation of which simulates smoking; and

(3) "nicotine liquid container":

(a) means a bottle or container of a liquid or other substance containing nicotine where the liquid or substance is sold, marketed or intended for use in an electronic delivery device; but

(b) does not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed or intended for use in a cartridge that is sold, marketed or intended for use in an electronic delivery device; provided that such cartridge is pre-filled and sealed by the manufacturer and is not intended to be opened by the consumer.

House Bill 213, aa

Approved April 8, 2015

LAWS 2015, CHAPTER 77

AN ACT

RELATING TO LIQUOR CONTROL; REVISING THE LIQUOR CONTROL ACT TO PROVIDE PENALTIES FOR VIOLATIONS OF TASTING PERMIT PROVISIONS.

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

Chapter 77 Section 1 Laws 2015

SECTION 1. Section 60-6A-33 NMSA 1978 (being Laws 2013, Chapter 148, Section 1) is amended to read:

"60-6A-33. TASTING PERMIT--FEES.--

A. The director is authorized to issue a tasting permit to a licensed dispenser, retailer, resident manufacturer, nonresident manufacturer, wholesaler or winegrower or an agent of any such licensed entity to conduct tastings of wine, beer, cider or spirituous liquor on a licensed premises in accordance with rules promulgated by the director to protect public health and safety. A person serving wine, beer, cider or spirituous liquor at a tasting event permitted pursuant to this section shall have a server permit.

B. To apply for a tasting permit, the holder of a license described in Subsection A of this section shall submit to the department a tasting permit fee of one hundred dollars (\$100) and such information as the director may require. A tasting permit shall be valid for one year from the date that it is issued and may be renewed upon application to the department and payment of the tasting permit fee of one hundred dollars (\$100). A person permitted to hold tastings pursuant to this section shall notify the director no less than forty-eight hours before a tasting event of the person's intent to hold the event. Notification shall include the times and locations of, and the types of products to be included in, the tasting event. Upon receipt of notification, the director shall forward the notice to the appropriate staff member of the special investigations division of the department of public safety.

C. The director may impose the following administrative penalties on a person who holds a tasting permit for violations of the Liquor Control Act that occur during tastings conducted pursuant to the person's tasting permit:

(1) for a first violation, a fine no greater than one thousand dollars (\$1,000) or a restriction on issuance of tasting permits to the person for a period of two months, or both;

(2) for a second violation within a year of the first violation, a fine no greater than two thousand dollars (\$2,000) or a restriction on issuance of tasting permits to the person for a period of six months, or both; and

(3) for a third violation within a year of the first violation, a citation against the license held by the person, a fine no greater than five thousand dollars (\$5,000) and a restriction on issuance of tasting permits to the person for a period of one year."

Chapter 77 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Approved April 8, 2015

LAWS 2015, CHAPTER 78

AN ACT

RELATING TO COUNTY EMPLOYEES; ADJUSTING THE QUALIFICATION INCENTIVE PAY FOR APPRAISERS.

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

Chapter 78 Section 1 Laws 2015

SECTION 1. Section 4-39-5 NMSA 1978 (being Laws 1977, Chapter 138, Section 2) is amended to read:

"4-39-5. ADDITIONAL COMPENSATION TO APPRAISERS.--A board of county commissioners may provide additional cumulative increments to the salary of any qualifying appraiser employed in the office of the assessor as an incentive for obtaining greater qualification levels up to the following amounts:

A. an additional five hundred dollars (\$500) a year for holding an "Appraiser 1" certificate;

B. an additional one thousand five hundred dollars (\$1,500) a year for holding an "Appraiser 2" certificate;

C. an additional two thousand five hundred dollars (\$2,500) a year for holding an "Appraiser 3" certificate; and

D. an additional three thousand dollars (\$3,000) a year for holding an "Appraiser 4" certificate."

Chapter 78 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 348

Approved April 8, 2015

LAWS 2015, CHAPTER 79

AN ACT

RELATING TO OIL AND GAS; AMENDING A SECTION OF THE OIL AND GAS ACT TO PROVIDE FOR BLANKET FINANCIAL ASSURANCE ON ANY WELL HELD IN TEMPORARILY ABANDONED STATUS FOR MORE THAN TWO YEARS; DECLARING AN EMERGENCY.

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

Chapter 79 Section 1 Laws 2015

SECTION 1. Section 70-2-14 NMSA 1978 (being Laws 1977, Chapter 237, Section 3, as amended) is amended to read:

"70-2-14. REQUIREMENT FOR FINANCIAL ASSURANCE.--

A. Each person, firm, corporation or association who operates any oil, gas or service well within the state shall, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond or a well-specific plugging insurance policy pursuant to the provisions of this section to the oil conservation division of the energy, minerals and natural resources department running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with the rules of the oil conservation division. The oil conservation division shall establish categories of financial assurance after notice and hearing. Such categories shall include a blanket plugging financial assurance in an amount not to exceed fifty thousand dollars (\$50,000), except for a blanket plugging financial assurance for temporarily abandoned status wells, which shall be set by rule at amounts greater than fifty thousand dollars (\$50,000), and one-well plugging financial assurance in amounts determined sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance. In establishing categories of financial assurance, the oil conservation division shall consider the depth of the well involved, the length of time since the well was produced, the cost of plugging similar wells and such other factors as the oil conservation division deems relevant. The oil conservation division shall require a one-well financial assurance on any well that has been held in a temporarily abandoned status for more than two years or, at the election of the operator, may allow an operator to increase its blanket plugging financial assurance to cover wells held in temporarily abandoned status. All financial assurance shall remain in force until released by the oil conservation division. The oil conservation division shall release financial assurance when it is satisfied the conditions of the financial assurance have been fully performed.

B. If any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

C. When any financial assurance is forfeited pursuant to the provisions of the Oil and Gas Act or rules promulgated pursuant to that act, the director of the oil conservation division shall give notice to the attorney general, who shall collect the forfeiture without delay.

D. All forfeitures shall be deposited in the state treasury in the oil and gas reclamation fund.

E. When the financial assurance proves insufficient to cover the cost of plugging oil and gas wells on land other than federal land and funds must be expended from the oil and gas reclamation fund to meet the additional expenses, the oil conservation division is authorized to bring suit against the operator in the district court of the county in which the well is located for indemnification for all costs incurred by the oil conservation division in plugging the well. All funds collected pursuant to a judgment in a suit for indemnification brought under the provisions of this section shall be deposited in the oil and gas reclamation fund.

F. An operator required to file financial assurance for a well pursuant to this section is considered to have met that requirement if the operator obtains a plugging insurance policy that includes the specific well and that:

- (1) is approved by the office of superintendent of insurance;
- (2) names the state of New Mexico as owner of the policy and contingent beneficiary;
- (3) names a primary beneficiary who agrees to plug the specified wellbore;
- (4) is fully prepaid and cannot be canceled or surrendered;
- (5) provides that the policy continues in effect until the specified wellbore has been plugged;
- (6) provides that benefits will be paid when, but not before, the specified wellbore has been plugged in accordance with rules of the oil conservation division in effect at the time of plugging; and
- (7) provides benefits that are not less than an amount equal to the one-well financial assurance required by oil conservation division rules.

G. If, subsequent to an operator obtaining an insurance policy as provided in this section, the one-well financial assurance requirement applicable to the operator's well is increased, either because the well is deepened or the rules of the oil conservation division are amended, the operator is considered to have met the revised requirement if:

(1) the existing policy benefit equals or exceeds the revised requirement;

(2) the operator obtains an amendment increasing the policy benefit by the amount of the increase in the applicable financial assurance requirement; or

(3) the operator obtains financial assurance equal to the amount, if any, by which the revised requirement exceeds the policy benefit."

Chapter 79 Section 2 Laws 2015

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

HEENC/House Bill 383, aa, w/ec

Approved April 8, 2015

LAWS 2015, CHAPTER 80

AN ACT

MAKING AN APPROPRIATION TO THE LOCAL GOVERNMENT PLANNING FUND.

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

Chapter 80 Section 1 Laws 2015

SECTION 1. APPROPRIATION.--Three million dollars (\$3,000,000) is appropriated from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2016 and subsequent fiscal years to make grants to qualified entities to evaluate and estimate the costs of implementing the most feasible alternatives for infrastructure, water or wastewater public projects or to develop water conservation plans, long-term master plans, economic development plans or energy audits and to pay the administrative costs of the local government planning program. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

Chapter 80 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 386

Approved April 8, 2015

LAWS 2015, CHAPTER 81

AN ACT

RELATING TO PUBLIC EMPLOYEES; PROVIDING FOR PUBLIC EMPLOYERS TO IMPLEMENT A LEAVE DONATION POLICY FOR EMPLOYEES WITH MEDICAL EMERGENCIES.

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

Chapter 81 Section 1 Laws 2015

SECTION 1. LEAVE DONATION POLICY.--

A. State agencies, political subdivisions and school districts shall implement policies that provide for employees who earn annual or sick leave the opportunity to donate annual or sick leave to another employee for a medical emergency. The policy shall provide:

(1) that a reasonable amount of leave may be donated by an employee annually and that each employee shall maintain a certain minimum amount of leave before making a donation of leave in excess of that amount;

(2) that the donation may be limited to a donation between employees within an organizational unit;

(3) for an application process for donated leave that includes:

(a) a method of soliciting donated leave;

(b) documentation of the identity of the donor and recipient of leave;

(c) a certified document by a health care provider that describes the nature, severity and anticipated duration of the emergency medical condition of the recipient and that includes a statement that the recipient is unable to work all or a portion of the recipient's work hours; and

(d) other information that the employing agency may reasonably require;

(4) that an employee who wishes to request donated leave shall first use all annual, sick and personal day leave that the employee has accrued and any compensatory time due prior to receiving donated leave;

(5) for conversion of the value of the donor's donated leave based on the donor's hourly rate of pay to hours of leave for the recipient based on the recipient's hourly rate of pay; and

(6) that unused donated leave at the end of a medical emergency or when no longer needed shall revert to the donating employees on a prorated basis.

B. To the extent any provision of this section conflicts with a current collective bargaining agreement negotiated pursuant to the Public Employee Bargaining Act, the provisions of this section shall not apply.

House Bill 403, aa

Approved April 8, 2015

LAWS 2015, CHAPTER 82

AN ACT

RELATING TO ANIMALS; CLARIFYING THE DISTRIBUTION OF THE PET CARE SPECIAL REGISTRATION PLATE FEE; REQUIRING THE ANIMAL SHELTERING BOARD TO DEVELOP AND IMPLEMENT A STATEWIDE DOG AND CAT SPAY AND NEUTER PROGRAM; ESTABLISHING THE STATEWIDE SPAY AND NEUTER SUBACCOUNT IN THE ANIMAL CARE AND FACILITY FUND; PROVIDING FOR AN OPTIONAL TAX REFUND CONTRIBUTION TO THE STATEWIDE DOG AND CAT SPAY AND NEUTER PROGRAM.

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

Chapter 82 Section 1 Laws 2015

SECTION 1. A new section of the Income Tax Act is enacted to read:

"OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTION--ANIMAL CARE AND FACILITY FUND.--

A. An 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 that individual for that tax year may designate a portion of the income tax refund due to the individual to be paid to the animal care and facility

fund to carry out the statewide dog and cat spay and neuter program. In the case of a joint return, both individuals must make that designation.

B. The department shall revise the state income tax form to allow the designation of a contribution in the following form:

"Statewide Dog and Cat Spay and Neuter
Program - Check if you wish to contribute
a part or all of your tax refund to the
Animal Care and Facility Fund to carry out
the statewide dog and cat spay and neuter
program. Enter here \$_____ the amount of
your contribution."

C. The provisions of this section do not apply to an income tax refund subject to interception under the provisions of the Tax Refund Intercept Program Act, and a designation made pursuant to the provisions of this section to that refund is void."

Chapter 82 Section 2 Laws 2015

SECTION 2. Section 66-3-424.3 NMSA 1978 (being Laws 2003, Chapter 175, Section 2, as amended) is amended to read:

"66-3-424.3. SPECIAL PET CARE REGISTRATION PLATES.--

A. The division shall issue a standardized pet care special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient supports pet care.

B. The division, with the advice and consultation of animal control offices and animal shelters in communities around the state, shall determine the color and design of the pet care special registration logo and provide for its issuance.

C. For a fee of thirty-five dollars (\$35.00) in addition to the regular motor vehicle registration fees, an owner of a motor vehicle may apply for the issuance of a pet care special registration plate. The owner of a motor vehicle shall apply and pay the fee each year that the owner wishes to retain and renew a pet care special registration plate.

D. The revenue from the pet care special registration plates shall be distributed as follows:

(1) ten dollars (\$10.00) of the fee collected for each pet care special registration plate shall be retained by and is appropriated to the division for the manufacture and issuance of the registration plates; and

(2) twenty-five dollars (\$25.00) of the fee collected for each pet care special registration plate shall be paid to the state treasurer for credit to the animal care and facility fund, statewide spay and neuter subaccount."

Chapter 82 Section 3 Laws 2015

SECTION 3. Section 77-1B-4 NMSA 1978 (being Laws 2007, Chapter 60, Section 4, as amended by Laws 2009, Chapter 102, Section 6 and by Laws 2009, Chapter 192, Section 2) is amended to read:

"77-1B-4. ANIMAL CARE AND FACILITY FUND CREATED--
ADMINISTRATION.--

A. The "animal care and facility fund" is created in the state treasury. All fees collected pursuant to the Animal Sheltering Act shall be deposited in the fund.

B. The animal care and facility fund shall consist of money collected by the board pursuant to the Animal Sheltering Act; income from investment of the fund; and money appropriated to the fund or accruing to it through fees or administrative penalties, cooperative research agreements, income, gifts, grants, donations, bequests, sales of promotional items, handbooks or educational materials or any other source. Money in the fund shall not be transferred to another fund or encumbered or expended except for expenditures authorized pursuant to the Animal Sheltering Act.

C. Money in the fund is appropriated by the legislature to the department to be used to help animal shelters and communities defray the cost of implementing the board's initiatives conducted pursuant to the Animal Sheltering Act. The fund shall be administered by the department to carry out the purposes of the Animal Sheltering Act.

D. The "statewide spay and neuter subaccount" is established in the animal care and facility fund. Money in the subaccount shall only be used to carry out the board's dog and cat sterilization assistance program. Money collected pursuant to Section 1 of this 2015 act and Section 66-3-424.3 NMSA 1978 shall be deposited in the subaccount.

E. A disbursement from the fund shall be made only upon a warrant drawn by the secretary of finance and administration pursuant to a voucher signed by the superintendent of regulation and licensing or the superintendent's designee.

F. Unexpended and unencumbered balances in the fund at the end of a fiscal year shall not revert to the general fund."

Chapter 82 Section 4 Laws 2015

SECTION 4. Section 77-1B-5 NMSA 1978 (being Laws 2007, Chapter 60, Section 5, as amended) is amended to read:

"77-1B-5. BOARD POWERS AND DUTIES.--The board shall:

A. provide board-recommended standards regarding the infrastructure for all animal shelters;

B. provide board-recommended operating standards for all animal shelters;

C. adopt methods and procedures acceptable for conducting emergency field euthanasia;

D. adopt, promulgate and revise rules necessary to carry out the provisions of the Animal Sheltering Act;

E. have authority to issue licenses and certificates pursuant to the Animal Sheltering Act;

F. establish the types of licenses and certificates that may be issued pursuant to the Animal Sheltering Act and establish criteria for issuing the licenses and certificates;

G. prescribe standards and approve curricula for educational programs that will be used to train and prepare persons for licensure or certification pursuant to the Animal Sheltering Act;

H. implement continuing education requirements for licensees and certificate holders pursuant to the Animal Sheltering Act;

I. conduct administrative hearings upon charges relating to violations of provisions of the Animal Sheltering Act or rules adopted pursuant to that act in accordance with the Uniform Licensing Act;

J. provide for all examinations and for issuance and renewal of licenses and certificates;

K. establish fees not to exceed one hundred fifty dollars (\$150) for licenses and certificates pursuant to the Animal Sheltering Act;

L. establish committees as the board deems necessary to effect the provisions of the Animal Sheltering Act;

M. apply for injunctive relief to enforce the provisions of the Animal Sheltering Act;

N. conduct national criminal background checks on applicants seeking licensure or certification under the Animal Sheltering Act;

O. keep a record of all proceedings;

P. make an annual report to the legislature and to the governor;

Q. provide for the inspection of animal shelters and euthanasia agencies;

R. develop mechanisms to address complaints of misconduct at animal shelters and euthanasia agencies and noncompliance with the provisions of the Animal Sheltering Act or rules adopted pursuant to that act;

S. develop mechanisms to address complaints of licensee and certificate holder misconduct and noncompliance;

T. develop a voluntary statewide dog and cat spay and neuter program in conjunction with animal shelters and euthanasia agencies;

U. develop criteria for individuals, groups, animal shelters and euthanasia agencies to receive assistance for dog and cat sterilization from the animal care and facility fund;

V. disburse money from the animal care and facility fund to qualifying individuals, groups, animal shelters and euthanasia agencies;

W. provide board-recommended standards for maintaining records concerning health care and disposition of animals; and

X. refer to national animal control association standards in determining its regulations."

Chapter 82 Section 5 Laws 2015

SECTION 5. APPLICABILITY.--

A. The provisions of Section 1 of this act apply to taxable years beginning on or after January 1, 2015.

B. The provisions of Section 3 of this act that require money collected pursuant to Section 66-3-424.3 NMSA 1978 to be deposited in the statewide spay and neuter subaccount apply to collections made on and after July 1, 2015.

Chapter 82 Section 6 Laws 2015

SECTION 6. EFFECTIVE DATE.--A. The effective date of the provisions of this act is July 1, 2015.

House Bill 415, aa

Approved April 8, 2015

LAWS 2015, CHAPTER 83

AN ACT

RELATING TO FINANCE; AUTHORIZING THE ISSUANCE OF BONDS SECURED BY A STATE GROSS RECEIPTS TAX INCREMENT FOR THE TAOS SKI VALLEY TAX INCREMENT DEVELOPMENT DISTRICT; DECLARING AN EMERGENCY.

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

Chapter 83 Section 1 Laws 2015

SECTION 1. AUTHORIZATION OF ISSUANCE OF BONDS.--The legislature authorizes the issuance of bonds not to exceed forty-four million dollars (\$44,000,000) 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 village of Taos Ski Valley 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 83 Section 2 Laws 2015

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 83 Section 3 Laws 2015

SECTION 3. CERTAIN CAPITAL PROJECTS PROHIBITED.--

A. The legislature shall not approve or authorize any capital outlay projects within the village of Taos Ski Valley 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 village of Taos Ski Valley tax increment development district during the period in which tax increment development bonds are outstanding.

Chapter 83 Section 4 Laws 2015

SECTION 4. REDUCTION IN STATE GROSS RECEIPTS TAX REVENUE.--

Once the developer of the village of Taos Ski Valley tax increment development project has been fully reimbursed, regardless of the source of reimbursement, for the costs of eligible infrastructure, the village of Taos Ski Valley 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 83 Section 5 Laws 2015

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

House Bill 441, w/ec

Approved April 8, 2015

LAWS 2015, CHAPTER 84

AN ACT

RELATING TO HIGHER EDUCATION; ESTABLISHING A PILOT PROJECT TO DETERMINE THE EFFICACY OF HAVING LEGISLATIVE LOTTERY TUITION SCHOLARSHIP STUDENTS PERFORM COMMUNITY OUTREACH AND MENTOR PUBLIC SCHOOL STUDENTS AND OTHER COLLEGE STUDENTS.

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

Chapter 84 Section 1 Laws 2015

SECTION 1. Section 21-21N-1 NMSA 1978 (being Laws 2014, Chapter 80, Section 1) is amended to read:

"21-21N-1. SHORT TITLE.--Chapter 21, Article 21N NMSA 1978 may be cited as the "Legislative Lottery Tuition Scholarship Act"."

Chapter 84 Section 2 Laws 2015

SECTION 2. A new section of the Legislative Lottery Tuition Scholarship Act is enacted to read:

"LOTTERY STUDENT COMMUNITY OUTREACH PILOT PROJECT--TUITION SCHOLARSHIP RECIPIENTS--ADDITIONAL REQUIREMENTS--MENTORING-- TRAINING.--

A. The "lottery student community outreach pilot project" is created as a six-year study that encourages students who receive a tuition scholarship pursuant to the Legislative Lottery Tuition Scholarship Act at participating public post-secondary educational institutions to volunteer to provide community outreach, chiefly through mentoring public school students. Tuition scholarship students are not required to participate to maintain their tuition scholarship. The purpose of the pilot project is to demonstrate that:

(1) both mentors and mentees receive similar benefits, including improved grades and on-time graduation and a renewed sense of confidence, purpose and community and civic engagement;

(2) this service improves the community in which the student volunteer works and the public school student lives;

(3) mentoring by young adults can help disadvantaged public school students narrow the achievement gap; improve cognitive, social and behavioral skills; and lead to higher test scores and success in school; and

(4) mentoring can also help the student volunteer improve the student volunteer's skills, test scores and success in college and inculcate civic and social engagement in community life.

B. The pilot project shall be administered by the department and shall be conducted with at least three public post-secondary educational institutions around the state, ideally with at least one from the research institutions, at least one from the comprehensive universities and at least one from the branch and independent community colleges and with at least five hundred tuition scholarship students. Preference for the pilot project shall be given to institutions in areas with high poverty rates and in public schools with eighty-five percent or more of the students eligible for free or reduced-fee lunch and high English language learner populations. The department may expand the pilot project during its term to more participants.

C. The department shall certify a list of nonprofit community- and education-oriented organizations that maintain relationships with public schools with which student volunteers may work. The organizations shall identify public schools in their areas that are interested in having mentors and shall develop a mentoring training program for student volunteers. The organizations shall also identify community-based outreach or specific community-based projects appropriate for students in their first program semester or students unable to mentor during the school year.

D. A participating community- and education-oriented organization shall monitor and evaluate the work of the student volunteers and the time spent mentoring or participating in community-based projects as well as the progress of the public school students being mentored.

E. The department shall determine application requirements and procedures for public post-secondary educational institutions, nonprofit community- and education-oriented organizations and student volunteers to apply for the pilot project, criteria to evaluate applications and quantitative and qualitative measures of the pilot project's efficacy.

F. In addition to other requirements and qualifications in the Legislative Lottery Tuition Scholarship Act, a tuition scholarship student who participates in the pilot project shall provide at least two hours per week of community outreach with public school students in the area of the public post-secondary educational institution the student attends. The community outreach shall consist of:

- (1) partnering with community-based organizations and assisting with community-based projects;
- (2) mentoring public school students; or
- (3) mentoring first-year college students.

G. The following schedule of community outreach for student volunteers is:

- (1) students in their first program semester shall partner with a community-based organization to assist it in community outreach or specific community-based projects;
- (2) students in their sophomore and junior years shall mentor students in grades kindergarten through twelve; and
- (3) students in their senior year shall mentor freshmen college students.

H. If a tuition scholarship student who wants to participate is unable to perform the community outreach service during the school year because of class load, work requirements or other reasons, the student volunteer may volunteer for an approved community outreach project that will be available for the student to participate in during semester breaks or the summer for a total of at least thirty-two hours.

I. Public schools that choose to participate in the pilot project shall identify willing students who would benefit from participation. The student's teacher or school

principal shall work with the nonprofit organization and the student volunteer to determine what activities and types of engagement would benefit the mentee student.

J. The department shall establish reporting and evaluation requirements for all participants in the pilot project. The department shall provide interim and final reports annually to the governor and the legislature.

K. The participating public post-secondary educational institutions, nonprofit community- and education-oriented organizations and public schools shall actively seek public and private grants and donations for any costs of the pilot project. Grants and donations shall be kept and expended as other grants and donations of the institution, organization or public school."

Chapter 84 Section 3 Laws 2015

SECTION 3. APPLICABILITY.--The provisions of this act apply to the fall 2016 and subsequent semesters of the lottery student community outreach pilot project's term.

House Bill 460

Approved April 8, 2015

LAWS 2015, CHAPTER 85

AN ACT

RELATING TO OCCUPATIONAL LICENSING; PROVIDING FOR BARBER LICENSURE AFTER COMPLETION OF A REGISTERED APPRENTICESHIP PROGRAM.

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

Chapter 85 Section 1 Laws 2015

SECTION 1. Section 61-17A-8 NMSA 1978 (being Laws 1993, Chapter 171, Section 8, as amended) is amended to read:

"61-17A-8. LICENSURE REQUIREMENTS--BARBERS.--

A. Except as provided in Subsection B of this section, a barber license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

(1) has an education equivalent to the completion of the second year of high school;

(2) is at least seventeen years of age;

(3) has completed a course in barbering of at least one thousand two hundred hours in a school or apprenticeship approved by the board; and

(4) has passed an examination approved by the board.

B. A barbering license shall be issued to a person who files a completed application, accompanied by the required fees and documentation, meets the requirements of Paragraphs (1) through (4) of Subsection A of this section and shows proof of having successfully completed a registered barbering apprenticeship approved by the state apprenticeship agency and the board of barbers and cosmetologists.

C. The holder of a barber license has the right and privilege to use the title "barber", and the initials "R.B." following the holder's surname and to use a barber pole, the traditional striped, vertical emblem of the barbering trade."

House Bill 463, aa

Approved April 8, 2015

LAWS 2015, CHAPTER 86

AN ACT

RELATING TO ALCOHOLIC BEVERAGE LICENSES; REPEALING AND REENACTING CERTAIN SECTIONS OF THE LIQUOR CONTROL ACT; PROVIDING FOR PRORATION OF FEES AND STAGGERED LICENSE RENEWAL DATES.

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

Chapter 86 Section 1 Laws 2015

SECTION 1. Section 60-6A-16 NMSA 1978 (being Laws 1981, Chapter 39, Section 33, as amended) is repealed and a new Section 60-6A-16 NMSA 1978 is enacted to read:

"60-6A-16. PRORATION OF FEES.--

A. License fees for new licenses issued after the beginning of the license year shall be prorated.

B. Dispenser, retailer, restaurant, club and public service license fees shall be prorated as follows:

(1) licenses issued in the first quarter of the license year for each license type shall be subject to the full amount of the annual license fee;

(2) licenses issued in the second quarter of the license year for each license type shall be subject to three-fourths of the annual license fee;

(3) licenses issued in the third quarter of the license year for each license type shall be subject to one-half of the annual license fee; and

(4) licenses issued in the fourth quarter of the license year for each license type shall be subject to one-fourth of the annual license fee.

C. License fees for all new licenses not provided for in Subsection B of this section, except nonresident licenses and common carrier registrations, shall not be prorated but shall be subject to payment of the full amount of the annual license fee.

D. Nonresident licenses and common carrier registrations shall be issued for a three-year period. The three-year license for nonresident licenses and for common carrier registrations begins July 1, 2013 and every third year subsequently. Nonresident licenses and common carrier registrations issued at any time during the:

(1) first license year shall be subject to payment of the full amount of the three-year license fee;

(2) second license year shall be subject to payment of two-thirds of the three-year license fee; and

(3) third license year shall be subject to payment of one-third of the three-year license fee."

Chapter 86 Section 2 Laws 2015

SECTION 2. Section 60-6B-5 NMSA 1978 (being Laws 1981, Chapter 39, Section 41, as amended) is repealed and a new Section 60-6B-5 NMSA 1978 is enacted to read:

"60-6B-5. EXPIRATION AND RENEWAL OF LICENSES.--

A. All licenses provided for in the Liquor Control Act, except for nonresident licenses and common carrier registrations, shall be issued for a one-year

period except for new licenses issued after the beginning of the license year. Nonresident licenses and common carrier registrations shall be issued for a three-year period.

B. The license year for dispenser, retailer and canopy licenses shall end on June 30 of each year. All dispenser, retailer and canopy licenses shall expire on June 30 unless renewed. The annual renewal application and renewal fee are due on April 1 of each year.

C. The license year for restaurant, club, wholesaler and manufacturer licenses shall end on October 31 of each year. All restaurant, club, wholesaler and manufacturer licenses shall expire on October 31 unless renewed. The annual renewal application and renewal fee are due on August 1 of each year.

D. All licenses not provided for in Subsections B and C of this section, except nonresident licenses and common carrier registrations, shall expire on February 28 of each year. The annual renewal application and renewal fee are due on December 1 of each year.

E. Nonresident licenses and common carrier registrations shall expire on June 30 every three years. The renewal application and renewal fee are due on April 1 of each third year.

F. A license shall not be issued or renewed if the applicant or licensee is delinquent in payment of any taxes administered by the taxation and revenue department.

G. The director shall also determine whether there exists any other reason why a license should not be renewed.

H. If the director determines that the license should not be renewed, the director shall enter an order requiring the licensee, after notice, to show cause why the license should be renewed, and the director shall conduct a hearing on the matter. If, after the hearing, the director finds that no reason exists why the license should not be renewed, the director shall renew the license."

Chapter 86 Section 3 Laws 2015

SECTION 3. TEMPORARY PROVISION.--

A. License renewal fees due on August 1, 2015 shall include an additional one-third of the annual license fee for the period from July 1, 2015 through October 31, 2015. All restaurant, club, wholesaler and manufacturer licensees shall be issued temporary licenses prior to June 30, 2015 that shall expire on October 31, 2015 unless renewed. New restaurant or club licenses issued between April 1, 2015 and June 30,

2015 shall require payment of an initial license fee of one-fourth of the annual renewal fee.

B. License renewal fees due on December 1, 2015 shall include an additional two-thirds of the annual license fee for the period of time from July 1, 2015 through February 28, 2016. All licensees that are required to file a renewal application and pay the renewal fee on December 1, 2015 shall be issued temporary licenses prior to June 30, 2015 that expire on February 28, 2016 unless renewed. Public service licenses issued between April 1, 2015 and June 30, 2015 shall require payment of an initial license fee of one-fourth of the annual renewal fee.

House Bill 478

Approved April 8, 2015

LAWS 2015, CHAPTER 87

AN ACT

RELATING TO MUNICIPAL COURT FEES; ALLOWING A MUNICIPALITY WITH A POPULATION LESS THAN TEN THOUSAND TO TRANSFER BALANCES FROM CERTAIN MUNICIPAL COURT FEES TO THE MUNICIPALITY'S GENERAL FUND.

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

Chapter 87 Section 1 Laws 2015

SECTION 1. Section 35-14-11 NMSA 1978 (being Laws 1983, Chapter 134, Section 6, as amended) is amended to read:

"35-14-11. MUNICIPAL ORDINANCE--COURT COSTS--COLLECTION--PURPOSE.--

A. Every municipality shall enact an ordinance requiring assessment of corrections fees, judicial education fees and court automation fees to be collected as court costs and used as provided in this section.

B. A municipal judge shall collect the following costs:

- (1) a corrections fee of twenty dollars (\$20.00);
- (2) a judicial education fee of three dollars (\$3.00); and
- (3) a court automation fee of six dollars (\$6.00).

C. The fees are to be collected upon conviction from persons convicted of violating any ordinance relating to the operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment.

D. All money collected pursuant to Paragraph (1) of Subsection B of this section shall be deposited in a special fund in the municipal treasury and shall be used for:

- (1) municipal jailer or juvenile detention officer training;
- (2) the construction planning, construction, operation and maintenance of a municipal jail or juvenile detention facility;
- (3) paying the cost of housing municipal prisoners in a county jail or detention facility or housing juveniles in a detention facility;
- (4) complying with match or contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities;
- (5) providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing;
- (6) defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities; or
- (7) providing electronic monitoring systems.

E. If a municipality with a population less than ten thousand according to the most recent federal decennial census has a balance in its special fund pursuant to Subsection D of this section that is over the amount projected to be needed for the next fiscal year for the purposes set forth in that subsection, the municipality may transfer the unneeded balance to the municipality's general fund.

F. A municipality may credit the interest collected from fees deposited in the special fund pursuant to Subsection D of this section to the municipality's general fund.

G. All money collected pursuant to Paragraph (2) of Subsection B of this section shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for the education and training, including production of bench books and other written materials, of municipal judges and other municipal court employees.

H. All money collected pursuant to Paragraph (3) of Subsection B of this section shall be remitted monthly to the state treasurer for credit to the municipal court automation fund and shall be used for the purchase, maintenance and operation of

court automation systems in the municipal courts. Operation includes staff expenses, temporary or otherwise, and costs as needed to comply with Section 35-14-12 NMSA 1978. The court automation systems shall have the capability of providing, on a timely basis, electronic records in a format specified by the judicial information systems council.

I. As used in this section, "convicted" means the defendant has been found guilty of a criminal charge by a municipal judge, either after trial, a plea of guilty or a plea of nolo contendere."

Chapter 87 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 487

Approved April 8, 2015

LAWS 2015, CHAPTER 88

AN ACT

RELATING TO FINANCE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS OR GRANTS FROM THE WATER PROJECT FUND FOR CERTAIN WATER PROJECTS; LIMITING WATER PROJECT AUTHORIZATIONS; DECLARING AN EMERGENCY.

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

Chapter 88 Section 1 Laws 2015

SECTION 1. AUTHORIZATION OF QUALIFYING WATER PROJECTS.-- Pursuant to the provisions of 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 Anthony in Dona Ana county for a flood prevention project;
2. to the city of Belen in Valencia county for a flood prevention project;

3. to the eastern Sandoval county flood control authority in Sandoval county for a flood prevention project;
4. to the middle Rio Grande conservancy district in Socorro county for a flood prevention project;
5. to the Pueblo of Santa Clara in Rio Arriba county for a flood prevention project;
6. to the city of Santa Rosa in Guadalupe county for a flood prevention project;
7. to the city of Socorro in Socorro county for a flood prevention project;
8. to the southern Sandoval county arroyo flood control authority in Sandoval county for a flood prevention project;
9. to the Pueblo of Acoma in Cibola county for a water conservation, treatment, recycling or reuse project;
10. to the Agua Sana water users association in Rio Arriba county for a water conservation, treatment, recycling or reuse project;
11. to the city of Carlsbad in Eddy county for a water conservation, treatment, recycling or reuse project;
12. to the town of Carrizozo in Lincoln county for a water conservation, treatment, recycling or reuse project;
13. to the Chamita mutual domestic water consumers association in Rio Arriba county for a water conservation, treatment, recycling or reuse project;
14. to the village of Cimarron in Colfax county for a water conservation, treatment, recycling or reuse project;
15. to the Cuatro Villas mutual domestic water users association in Santa Fe county for a water conservation, treatment, recycling or reuse project;
16. to the town of Edgewood in Santa Fe county for a water conservation, treatment, recycling or reuse project;
17. to the city of Hobbs in Lea county for a water conservation, treatment, recycling or reuse project;
18. to La Luz mutual domestic water association in Otero county for a water conservation, treatment, recycling or reuse project;

19. to Los Alamos county for a water conservation, treatment, recycling or reuse project;

20. to Los Alamos county for an additional water conservation, treatment, recycling or reuse project;

21. to the Northeastern soil and water conservation district in Union county for a water conservation, treatment, recycling or reuse project;

22. to Rio Arriba county for a water conservation, treatment, recycling or reuse project;

23. to the city of Rio Rancho in Sandoval county for a water conservation, treatment, recycling or reuse project;

24. to the city of Rio Rancho in Sandoval county for an additional water conservation, treatment, recycling or reuse project;

25. to the city of Santa Rosa in Guadalupe county for a water conservation, treatment, recycling or reuse project;

26. to the Pueblo of Tesuque in Santa Fe county for a water conservation, treatment, recycling or reuse project;

27. to the Pueblo of Tesuque in Santa Fe county for an additional water conservation, treatment, recycling or reuse project;

28. to the acequia de la Isla in Mora county for a water storage, conveyance and delivery project;

29. to the Ancones mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;

30. to the village of Angel Fire in Colfax county for a water storage, conveyance and delivery project;

31. to the village of Angel Fire in Colfax county for an additional water storage, conveyance and delivery project;

32. to the village of Angel Fire in Colfax county for an additional water storage, conveyance and delivery project;

33. to the town of Bernalillo in Sandoval county for a water storage, conveyance and delivery project;

34. to the town of Bernalillo in Sandoval county for an additional water storage, conveyance and delivery project;

35. to the city of Bloomfield in San Juan county for a water storage, conveyance and delivery project;

36. to the Bluewater water and sanitation district in Cibola county for a water storage, conveyance and delivery project;

37. to the Buena Vista mutual domestic water consumers and sewage works association in Mora county for a water storage, conveyance and delivery project;

38. to the Canoncito at Apache Canyon mutual domestic water consumers and mutual sewage works association in Santa Fe county for a water storage, conveyance and delivery project;

39. to the village of Capitan in Lincoln county for a water storage, conveyance and delivery project;

40. to the village of Capitan in Lincoln county for an additional water storage, conveyance and delivery project;

41. to the city of Carlsbad in Eddy county for a water storage, conveyance and delivery project;

42. to the town of Carrizozo in Lincoln county for a water storage, conveyance and delivery project;

43. to the village of Causey in Roosevelt county for a water storage, conveyance and delivery project;

44. to the Chama West water users association in Rio Arriba county for a water storage, conveyance and delivery project;

45. to the Chamberino mutual domestic water consumers and sewer association in Dona Ana county for a water storage, conveyance and delivery project;

46. to the Chupadero water and sewage corporation in Santa Fe county for a water storage, conveyance and delivery project;

47. to the village of Corona in Lincoln county for a water storage, conveyance and delivery project;

48. to the Cuatro Villas mutual domestic water users association in Santa Fe county for a water storage, conveyance and delivery project;

49. to Curry county for a water storage, conveyance and delivery project;
50. to the Desert Aire mutual domestic water and sewer works association in Dona Ana county for a water storage, conveyance and delivery project;
51. to the village of Eagle Nest in Colfax county for a water storage, conveyance and delivery project;
52. to the East Culpepper Flats domestic water users association in San Juan county for a water storage, conveyance and delivery project;
53. to El Salto mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;
54. to El Valle de los Ranchos water and sanitation district in Taos county for a water storage, conveyance and delivery project;
55. to El Valle water alliance in San Miguel county for a water storage, conveyance and delivery project;
56. to the Eldorado area water and sanitation district in Santa Fe county for a water storage, conveyance and delivery project;
57. to the Eldorado area water and sanitation district in Santa Fe county for an additional water storage, conveyance and delivery project;
58. to the Eldorado area water and sanitation district in Santa Fe county for an additional water storage, conveyance and delivery project;
59. to the town of Elida in Roosevelt county for a water storage, conveyance and delivery project;
60. to the eastern New Mexico water utility authority in Curry and Roosevelt counties for a water storage, conveyance and delivery project;
61. to the town of Estancia in Torrance county for a water storage, conveyance and delivery project;
62. to the city of Eunice in Lea county for a water storage, conveyance and delivery project;
63. to the city of Gallup in McKinley county for a water storage, conveyance and delivery project;

64. to the Garfield mutual domestic water consumers and mutual sewage works association in Dona Ana county for a water storage, conveyance and delivery project;

65. to the greater Glorieta community regional mutual domestic water consumers and sewage works association in Santa Fe county for a water storage, conveyance and delivery project;

66. to the Green Ridge mutual domestic water consumers association in Bernalillo county for a water storage, conveyance and delivery project;

67. to the town of Hagerman in Chaves county for a water storage, conveyance and delivery project;

68. to the town of Hagerman in Chaves county for an additional water storage, conveyance and delivery project;

69. to the Hanover mutual domestic water consumers association in Grant county for a water storage, conveyance and delivery project;

70. to the village of Hatch in Dona Ana county for a water storage, conveyance and delivery project;

71. to the city of Jal in Lea county for a water storage, conveyance and delivery project;

72. to La Cueva mutual domestic water consumers association in San Miguel county for a water storage, conveyance and delivery project;

73. to the Pueblo of Laguna in Cibola county for a water storage, conveyance and delivery project;

74. to the city of Las Vegas in San Miguel county for a water storage, conveyance and delivery project;

75. to Lea county for a water storage, conveyance and delivery project;

76. to the village of Los Lunas in Valencia county for a water storage, conveyance and delivery project;

77. to the Lower Arroyo Hondo mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;

78. to the Lower Des Montes mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;

79. to the village of Magdalena in Socorro county for a water storage, conveyance and delivery project;

80. to McKinley county for a water storage, conveyance and delivery project;

81. to McKinley county for an additional water storage, conveyance and delivery project;

82. to McKinley county for an additional water storage, conveyance and delivery project;

83. to the Mescalero Apache Tribe in Otero county for a water storage, conveyance and delivery project;

84. to the Mescalero Apache Tribe in Otero county for an additional water storage, conveyance and delivery project;

85. to the town of Mesilla in Dona Ana county for a water storage, conveyance and delivery project;

86. to the Otis mutual domestic water consumers and sewage works association in Eddy county for a water storage, conveyance and delivery project;

87. to the village of Pecos in San Miguel county for a water storage, conveyance and delivery project;

88. to the Pojoaque Valley public school district in Santa Fe county for a water storage, conveyance and delivery project;

89. to the city of Portales in Roosevelt county for a water storage, conveyance and delivery project;

90. to the Rainsville water and sanitation district in Mora county for a water storage, conveyance and delivery project;

91. to the town of Red River in Taos county for a water storage, conveyance and delivery project;

92. to the Regina mutual domestic water consumers association in Sandoval county for a water storage, conveyance and delivery project;

93. to Rivera's mutual domestic water consumers association in Guadalupe county for a water storage, conveyance and delivery project;

94. to the Rowe mutual domestic water consumers and mutual sewage works association in San Miguel county for a water storage, conveyance and delivery project;

95. to the city of Ruidoso Downs in Lincoln county for a water storage, conveyance and delivery project;

96. to the Pueblo of Santa Clara in Rio Arriba county for a water storage, conveyance and delivery project;

97. to the Santa Cruz irrigation district in Santa Fe county for a water storage, conveyance and delivery project;

98. to the city of Santa Fe in Santa Fe county for a water storage, conveyance and delivery project;

99. to the city of Santa Fe in Santa Fe county for an additional water storage, conveyance and delivery project;

100. to the city of Santa Rosa in Guadalupe county for a water storage, conveyance and delivery project;

101. to the village of Taos Ski Valley in Taos county for a water storage, conveyance and delivery project;

102. to the village of Taos Ski Valley in Taos county for an additional water storage, conveyance and delivery project;

103. to the town of Taos in Taos county for a water storage, conveyance and delivery project;

104. to the city of Texico in Curry county for a water storage, conveyance and delivery project;

105. to the Timberon water and sanitation district in Otero county for a water storage, conveyance and delivery project;

106. to the Timberon water and sanitation district in Otero county for an additional water storage, conveyance and delivery project;

107. to the Timberon water and sanitation district in Otero county for an additional water storage, conveyance and delivery project;

108. to the Tres Piedras mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;

109. to the city of Truth or Consequences in Sierra county for a water storage, conveyance and delivery project;

110. to the village of Tularosa in Otero county for a water storage, conveyance and delivery project;

111. to the Union del Llano mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;

112. to the town of Vaughn in Guadalupe county for a water storage, conveyance and delivery project;

113. to the village of Wagon Mound in Mora county for a water storage, conveyance and delivery project;

114. to the Canadian River soil and water conservation district in Quay county for a watershed restoration and management project;

115. to the Ciudad soil and water conservation district in Bernalillo county for a watershed restoration and management project;

116. to the Claunch-Pinto soil and water conservation district in Bernalillo, Santa Fe and Torrance counties for a watershed restoration and management project;

117. to the Claunch-Pinto soil and water conservation district in Bernalillo, Santa Fe and Torrance counties for a watershed restoration and management project;

118. to the Colfax soil and water conservation district in Colfax county for a watershed restoration and management project;

119. to the village of Cuba in Sandoval county for a watershed restoration and management project;

120. to the Guadalupe soil and water conservation district in Guadalupe county for a watershed restoration and management project;

121. to the Merced del Pueblo de Cebolleta in Cibola county for a watershed restoration and management project;

122. to the Mescalero Apache Tribe in Otero county for a watershed restoration and management project;

123. to the Pueblo of Santa Clara in Rio Arriba county for a watershed restoration and management project;

124. to the city of Santa Fe in Santa Fe county for a watershed restoration and management project;

125. to the Sierra soil and water conservation district in Sierra county for a watershed restoration and management project;

126. to the Upper Hondo soil and water conservation district in Lincoln county for a watershed restoration and management project; and

127. to the Ute Creek soil and water conservation district in Harding county for a watershed restoration and management project.

Chapter 88 Section 2 Laws 2015

SECTION 2. A new section of the Water Project Finance Act is enacted to read:

"VOIDING OF AUTHORIZATION.--The legislative authorization for a qualifying entity to receive a grant or loan from the water project fund for a project is void three years after that authorization is given, but this provision does not prohibit the legislature from authorizing a project that was previously authorized."

Chapter 88 Section 3 Laws 2015

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

House Bill 578, aa, w/ec

Approved April 8, 2015

LAWS 2015, CHAPTER 89

AN ACT

RELATING TO TAXATION; CHANGING PROCEDURES FOR ADJUSTING CERTAIN DISTRIBUTIONS AND TRANSFERS TO MUNICIPALITIES AND COUNTIES; ALLOWING THE TAXATION AND REVENUE DEPARTMENT TO, IN CERTAIN CIRCUMSTANCES, REVEAL TO LOCAL GOVERNMENTS A RANGE OF GROSS RECEIPTS TAXES PAID BY TAXPAYERS FROM BUSINESS LOCATIONS ATTRIBUTABLE TO THOSE LOCAL GOVERNMENTS.

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

Chapter 89 Section 1 Laws 2015

SECTION 1. Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended) is amended to read:

"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO MUNICIPALITIES OR COUNTIES.--

A. The provisions of this section apply to:

(1) any distribution to a municipality pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

(2) any transfer to a municipality with respect to any local option gross receipts tax imposed by that municipality;

(3) any transfer to a county with respect to any local option gross receipts tax imposed by that county;

(4) any distribution to a county pursuant to Section 7-1-6.16 or 7-1-6.47 NMSA 1978;

(5) any distribution to a municipality or a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

(6) any transfer to a county with respect to any tax imposed in accordance with the Local Liquor Excise Tax Act;

(7) any distribution to a county from the county government road fund pursuant to Section 7-1-6.26 NMSA 1978;

(8) any distribution to a municipality of gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

(9) any distribution to a municipality of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.

B. Before making a distribution or transfer specified in Subsection A of this section to a municipality or county for the month, amounts comprising the net receipts shall be segregated into two mutually exclusive categories. One category shall be for amounts relating to the current month, and the other category shall be for amounts relating to prior periods. The total of each category for a municipality or county shall be reported each month to that municipality or county. If the total of the amounts relating to prior periods is less than zero and its absolute value exceeds the greater of one hundred dollars (\$100) or an amount equal to twenty percent of the average distribution

or transfer amount for that municipality or county, then the following procedures shall be carried out:

(1) all negative amounts relating to any period prior to the three calendar years preceding the year of the current month, net of any positive amounts in that same time period for the same taxpayers to which the negative amounts pertain, shall be excluded from the total relating to prior periods. Except as provided in Paragraph (2) of this subsection, the net receipts to be distributed or transferred to the municipality or county shall be adjusted to equal the amount for the current month plus the revised total for prior periods; and

(2) if the revised total for prior periods determined pursuant to Paragraph (1) of this subsection is negative and its absolute value exceeds the greater of one hundred dollars (\$100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, the revised total for prior periods shall be excluded from the distribution or transfers and the net receipts to be distributed or transferred to the municipality or county shall be equal to the amount for the current month.

C. The department shall recover from a municipality or county the amount excluded by Paragraph (2) of Subsection B of this section. This amount may be referred to as the "recoverable amount".

D. Prior to or concurrently with the distribution or transfer to the municipality or county of the adjusted net receipts, the department shall notify the municipality or county whose distribution or transfer has been adjusted pursuant to Paragraph (2) of Subsection B of this section:

(1) that the department has made such an adjustment, that the department has determined that a specified amount is recoverable from the municipality or county and that the department intends to recover that amount from future distributions or transfers to the municipality or county;

(2) that the municipality or county has ninety days from the date notice is made to enter into a mutually agreeable repayment agreement with the department;

(3) that if the municipality or county takes no action within the ninety-day period, the department will recover the amount from the next six distributions or transfers following the expiration of the ninety days; and

(4) that the municipality or county may inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application for a claim for refund that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application.

E. No earlier than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall begin recovering the recoverable amount from a municipality or county as follows:

(1) the department may collect the recoverable amount by:

(a) decreasing distributions or transfers to the municipality or county in accordance with a repayment agreement entered into with the municipality or county; or

(b) except as provided in Paragraphs (2) and (3) of this subsection, if the municipality or county fails to act within the ninety days, decreasing the amount of the next six distributions or transfers to the municipality or county following expiration of the ninety-day period in increments as nearly equal as practicable and sufficient to recover the amount;

(2) if, pursuant to Subsection B of this section, the secretary determines that the recoverable amount is more than fifty percent of the average distribution or transfer of net receipts for that municipality or county, the secretary:

(a) shall recover only up to fifty percent of the average distribution or transfer of net receipts for that municipality or county; and

(b) may, in the secretary's discretion, waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance; and

(3) if, after application of a refund claim, audit adjustment, correction of a mistake by the department or other adjustment of a prior period, but prior to any recovery of the department pursuant to this section, the total net receipts of a municipality or county for the twelve-month period beginning with the current month are reduced or are projected to be reduced to less than fifty percent of the average distribution or transfer of net receipts, the secretary may waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance.

F. No later than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall provide the municipality or county adequate opportunity to review an application for a claim for refund that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application, pursuant to Section 7-1-8.9 NMSA 1978.

G. On or before September 1 of each year beginning in 2016, the secretary shall report to the state board of finance and the legislative finance committee the total recoverable amount waived pursuant to Subparagraph (b) of Paragraph (2) and Paragraph (3) of Subsection E of this section for each municipality and county in the prior fiscal year.

H. The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next designated distribution or transfer, and succeeding distributions or transfers as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:

(1) prior to an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department takes precedence over any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, which may be made only from the net amount of the distribution or transfer remaining after application of the decrease or redirection pursuant to this subsection; and

(2) after an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department shall be subordinate to any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section.

I. Upon the direction of the secretary of finance and administration pursuant to Section 9-6-5.2 NMSA 1978, the secretary shall temporarily withhold the balance of a distribution to a municipality or county, net of any decrease or redirected amount pursuant to Subsection H of this section and any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, that has failed to submit an audit report required by the Audit Act or a financial report required by Subsection F of Section 6-6-2 NMSA 1978. The amount to be withheld, the source of the withheld distribution and the number of months that the distribution is to be withheld shall be as directed by the secretary of finance and administration. A distribution withheld pursuant to this subsection shall remain in the tax administration suspense fund until distributed to the municipality or county and shall not be distributed to the general fund. An amount withheld pursuant to this subsection shall be distributed to the municipality or county upon direction of the secretary of finance and administration.

J. As used in this section:

(1) "amounts relating to the current month" means any amounts included in the net receipts of the current month that represent payment of tax due for the current month, correction of amounts processed in the current month that relate to the current month or that otherwise relate to obligations due for the current month;

(2) "amounts relating to prior periods" means any amounts processed during the current month that adjust amounts processed in a period or periods prior to the current month regardless of whether the adjustment is a correction of a department error or due to the filing of amended returns, payment of department-issued assessments, filing or approval of claims for refund, audit adjustments or other cause;

(3) "average distribution or transfer amount" means the following amounts; provided that a distribution or transfer that is negative shall not be used in calculating the amounts:

(a) the annual average of the total amount distributed or transferred to a municipality or county in each of the three twelve-month periods preceding the current month;

(b) if a distribution or transfer to a municipality or county has been made for less than three years, the total amount distributed or transferred in the year preceding the current month; or

(c) if a municipality or county has not received distributions or transfers of net receipts for twelve or more months, the monthly average of net receipts distributed or transferred to the municipality or county preceding the current month multiplied by twelve;

(4) "current month" means the month for which the distribution or transfer is being prepared; and

(5) "repayment agreement" means an agreement between the department and a municipality or county under which the municipality or county agrees to allow the department to recover an amount determined pursuant to Paragraph (2) of Subsection B of this section by decreasing distributions or transfers to the municipality or county for one or more months beginning with the distribution or transfer to be made with respect to a designated month. No interest shall be charged."

Chapter 89 Section 2 Laws 2015

SECTION 2. Section 7-1-8.9 NMSA 1978 (being Laws 2009, Chapter 243, Section 11) is amended to read:

"7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL GOVERNMENTS AND THEIR AGENCIES.--

A. An employee of the department may reveal to:

(1) the officials or employees of a municipality of this state authorized in a written request by the municipality for a period specified in the request within the twelve months preceding the request; provided that the municipality receiving the information has entered into a written agreement with the department that the information shall be used for tax purposes only and specifying that the municipality is subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978:

(a) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts for that municipality under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality. The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the municipality may agree in writing;

(b) a range of taxable gross receipts of registered gross receipts paid by taxpayers from business locations attributable to that municipality under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality; provided that authorization from the federal internal revenue service to reveal such information has been received. The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the municipality may agree in writing; and

(c) information indicating whether persons shown on a list of businesses located within that municipality furnished by the municipality have reported gross receipts to the department but have not reported gross receipts for that municipality under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality;

(2) the officials or employees of a county of this state authorized in a written request by the county for a period specified in the request within the twelve months preceding the request; provided that the county receiving the information has entered into a written agreement with the department that the information shall be used for tax purposes only and specifying that the county is subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978:

(a) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts either for that county in the case of a local option gross receipts tax imposed on a countywide basis or only for the areas of that county outside of any incorporated municipalities within that

county in the case of a county local option gross receipts tax imposed only in areas of the county outside of any incorporated municipalities. The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the county may agree in writing;

(b) a range of taxable gross receipts of registered gross receipts paid by taxpayers from business locations attributable either to that county in the case of a local option gross receipts tax imposed on a countywide basis or only to the areas of that county outside of any incorporated municipalities within that county in the case of a county local option gross receipts tax imposed only in areas of the county outside of any incorporated municipalities; provided that authorization from the federal internal revenue service to reveal such information has been received. The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the county may agree in writing;

(c) in the case of a local option gross receipts tax imposed by a county on a countywide basis, information indicating whether persons shown on a list of businesses located within the county furnished by the county have reported gross receipts to the department but have not reported gross receipts for that county under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that county on a countywide basis; and

(d) in the case of a local option gross receipts tax imposed by a county only on persons engaging in business in that area of the county outside of incorporated municipalities, information indicating whether persons on a list of businesses located in that county outside of the incorporated municipalities but within that county furnished by the county have reported gross receipts to the department but have not reported gross receipts for that county outside of the incorporated municipalities within that county under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by the county only on persons engaging in business in that county outside of the incorporated municipalities; and

(3) officials or employees of a municipality or county of this state, authorized in a written request of the municipality or county, for purposes of inspection, the records of the department pertaining to an increase or decrease to a distribution or transfer made pursuant to Section 7-1-6.15 NMSA 1978 for the purpose of reviewing the basis for the increase or decrease; provided that the municipality or county receiving the information has entered into a written agreement with the department that the information shall be used for tax purposes only and specifying that the municipality or county is subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978. The authorized officials or employees may only reveal the information provided in this paragraph to another authorized official or employee, to an employee of the department, or a district court, an appellate court or a federal court in a proceeding relating to a disputed distribution and in which both the state and the municipality or county are parties.

B. The department may require that a municipal or county official or employee satisfactorily complete appropriate training on protecting confidential information prior to receiving the information pursuant to Subsection A of this section."

Chapter 89 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

HGEIC/House Bill 581

Approved April 8, 2015

LAWS 2015, CHAPTER 90

AN ACT

RELATING TO HEALTH CARE; AMENDING A SECTION OF THE PUBLIC HEALTH ACT TO PROVIDE FOR EXPANDED SOURCES OF ACCREDITATION FOR STROKE CENTERS AND PRE-HOSPITALIZATION PROTOCOLS FOR EMERGENCY MEDICAL SERVICES AUTHORITIES.

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

Chapter 90 Section 1 Laws 2015

SECTION 1. Section 24-1-34 NMSA 1978 (being Laws 2012, Chapter 4, Section 1) is amended to read:

"24-1-34. PRIMARY STROKE CENTERS--COMPREHENSIVE STROKE CENTERS--ACUTE STROKE CAPABLE CENTERS--DEPARTMENT CERTIFICATION--RULEMAKING.--

A. In accordance with department rules, the department shall certify any acute care hospital as a primary stroke center, comprehensive stroke center or acute stroke capable center if that hospital has been accredited by the joint commission or any other nationally recognized accrediting body as a primary stroke center, comprehensive stroke center or acute stroke capable center. The department shall post information regarding certification on the department's web site. If a hospital loses accreditation as a primary stroke center, comprehensive stroke center or acute stroke capable center, the secretary shall also remove that hospital's certification.

B. In accordance with department rules, the emergency medical systems bureau of the department shall work in coordination with all local and regional emergency medical services authorities statewide on the development of pre-hospitalization protocols related to the assessment, treatment and transport of stroke patients by licensed emergency medical services providers. These protocols shall include, at a minimum, plans for the triage and transport of stroke patients to the closest comprehensive or primary stroke center or, when appropriate, to an acute stroke capable center.

C. The secretary may adopt rules to assist and encourage primary stroke centers to enter into coordinated stroke care agreements with other health care facilities throughout the state to provide appropriate access to care for acute stroke patients."

Senate Bill 81

Approved April 8, 2015

LAWS 2015, CHAPTER 91

AN ACT

RELATING TO MAGISTRATE COURT CIVIL JUDGMENTS; REMOVING THE REFERENCE TO COURTS NOT OF RECORD FROM THE STATUTE PROVIDING FOR LIMITATIONS ON ACTIONS BASED ON CERTAIN PRIVATE WRITTEN INSTRUMENTS.

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

Chapter 91 Section 1 Laws 2015

SECTION 1. Section 37-1-3 NMSA 1978 (being Laws 1880, Chapter 5, Section 3, as amended) is amended to read:

"37-1-3. NOTES--WRITTEN INSTRUMENTS--PERIOD OF LIMITATION--COMPUTATION OF PERIOD.--

A. Actions founded upon any bond, promissory note, bill of exchange or other contract in writing shall be brought within six years.

If the payee of any bond, promissory note, bill of exchange or other contract in writing enters into any contract or agreement in writing to defer the payment thereof, or contracts or agrees not to assert any claim against the payor or against the assets of the payor until the happening of some contingency, the time during the period from the

execution of the contract or agreement and the happening of the contingency shall not be included in computing the six-year period of limitation provided in this subsection.

B. Actions against any banking or financial organization subject to the provisions of the Uniform Unclaimed Property Act (1995) founded upon a bill of exchange shall be brought within ten years.

C. Actions founded upon a traveler's check shall be brought within fifteen years."

Senate Bill 107

Approved April 8, 2015

LAWS 2015, CHAPTER 92

AN ACT

RELATING TO PROPERTY TAXATION; EXPANDING THE DEFINITION OF "AGRICULTURAL USE" FOR PROPERTY VALUATION PURPOSES TO INCLUDE THE RESTING OF LAND UNDER CERTAIN CONDITIONS.

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

Chapter 92 Section 1 Laws 2015

SECTION 1. Section 7-36-20 NMSA 1978 (being Laws 1973, Chapter 258, Section 21, as amended) is amended to read:

"7-36-20. SPECIAL METHOD OF VALUATION--LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES.--

A. The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. Evidence of bona fide primary agricultural use of land for the tax year preceding the year for which determination is made of eligibility for the land to be valued under this section creates a presumption that the land is used primarily for agricultural purposes during the tax year in which the determination is made. If the land was valued under this section in one or more of the three tax years preceding the year in which the determination is made and the use of the land has not changed since the most recent valuation under this section, a presumption is created that the land continues to be entitled to that valuation.

B. For the purpose of this section:

(1) "agricultural products" means plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish; and

(2) "agricultural use" means the:

(a) use of land for the production of agricultural products;

(b) use of land that meets the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government;

(c) resting of land to maintain its capacity to produce agricultural products; or

(d) resting of land as the direct result of at least moderate drought conditions as designated by the United States department of agriculture, if the drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year; provided that the land was used in the tax year immediately preceding the previous tax year primarily for a purpose identified pursuant to this paragraph.

C. The department shall adopt rules for determining whether land is used primarily for agricultural purposes. The rules shall provide that the use of land for the lawful taking of game shall not be considered in determining whether land is used primarily for agricultural purposes.

D. The department shall adopt rules for determining the value of land used primarily for agricultural purposes. The rules shall:

(1) specify procedures to use in determining the capacity of land to produce agricultural products and the derivation of value of the land based upon its production capacity;

(2) establish carrying capacity as the measurement of the production capacity of land used for grazing purposes, develop a system of determining carrying capacity through the use of an animal unit concept and establish carrying capacities for the land in the state classified as grazing land;

(3) provide that land the bona fide and primary use of which is the production of captive deer or elk shall be valued as grazing land and that captive deer shall be valued and taxed as sheep and captive elk shall be valued and taxed as cattle;

(4) provide for the consideration of determinations of any other governmental agency concerning the capacity of the same or similar lands to produce agricultural products;

(5) assure that land determined under the rules to have the same or similar production capacity shall be valued uniformly throughout the state; and

(6) provide for the periodic review by the department of determined production capacities and capitalization rates used for determining annually the value of land used primarily for agricultural purposes.

E. All improvements, other than those specified in Section 7-36-15 NMSA 1978, on land used primarily for agricultural purposes shall be valued separately for property taxation purposes, and the value of these improvements shall be added to the value of the land determined under this section.

F. The owner of the land shall make application to the county assessor in a tax year in which the valuation method of this section is first claimed to be applicable to the land or in a tax year immediately subsequent to a tax year in which the land was not valued under this section. Application shall be made under oath, shall be in a form and contain the information required by department rules and shall be made no later than thirty days after the date of mailing by the assessor of the notice of valuation. Once land is valued under this section, application need not be made in subsequent tax years as long as there is no change in the use of the land.

G. The owner of land valued under this section shall report to the county assessor whenever the use of the land changes so that it is no longer being used primarily for agricultural purposes. This report shall be made on a form prescribed by department rules and shall be made by the last day of February of the tax year immediately following the year in which the change in the use of the land occurs.

H. Any person who is required to make a report under the provisions of Subsection G of this section and who fails to do so is personally liable for a civil penalty in an amount equal to the greater of twenty-five dollars (\$25.00) or twenty-five percent of the difference between the property taxes ultimately determined to be due and the property taxes originally paid for the tax years for which the person failed to make the required report."

Chapter 92 Section 2 Laws 2015

SECTION 2. APPLICABILITY.--The provisions of this act apply to the 2016 and subsequent property tax years.

SCORC/SCONC/Senate Bill 112

Approved April 8, 2015

LAWS 2015, CHAPTER 93

AN ACT

RELATING TO PUBLIC SCHOOL FACILITIES; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO ALLOW THE PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL TO PROVIDE TEMPORARY ANNUAL ALLOCATIONS TO SCHOOL DISTRICTS TO ADDRESS BUILDING SYSTEMS NEEDS IN EXISTING BUILDINGS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Chapter 93 Section 1 Laws 2015

SECTION 1. Section 22-24-3 NMSA 1978 (being Laws 1975, Chapter 235, Section 3, as amended) is amended to read:

"22-24-3. DEFINITIONS.--As used in the Public School Capital Outlay Act:

A. "building system" means a set of interacting parts that makes up a single, nonportable or fixed component of a facility and that, together with other building systems, makes up an entire integrated facility or property, including, but not limited to, roofing, electrical distribution, electronic communication, plumbing, lighting, mechanical, fire prevention, facility shell, interior finishes and heating, ventilation and air conditioning systems, as defined by the council;

B. "constitutional special schools" means the New Mexico school for the blind and visually impaired and the New Mexico school for the deaf;

C. "constitutional special schools support spaces" means all facilities necessary to support the constitutional special schools' educational mission that are not included in the constitutional special schools' educational adequacy standards, including, but not limited to, performing arts centers, facilities for athletic competition, school district administration and facility and vehicle maintenance;

D. "council" means the public school capital outlay council;

E. "education technology infrastructure" means the physical hardware used to interconnect education technology equipment for school districts and school buildings necessary to support broadband connectivity as determined by the council;

F. "fund" means the public school capital outlay fund; and

G. "school district" includes state-chartered charter schools and the constitutional special schools."

Chapter 93 Section 2 Laws 2015

SECTION 2. 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 M 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 public school facilities 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 and custody of the portable classrooms shall rest in the public school facilities 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 public school facilities authority shall be paid from the fund; expenses of maintenance and insurance of the portable classrooms while in the custody of a school district shall be the responsibility of the school district. The council may authorize the permanent disposition of the portable classrooms by the public school facilities authority with prior approval of the state board of finance.

D. Applications for assistance from the fund shall be made by school districts to the council in accordance with requirements of the council. Except as provided in Subsection K of this section, the council shall require as a condition of application that a school district have a current five-year facilities plan, which shall include a current preventive maintenance plan to which the school adheres for each public school in the school district.

E. The council shall review all requests for assistance from the fund and shall allocate funds only for those capital outlay projects that meet the criteria of the Public School Capital Outlay Act.

F. Money in the fund shall be disbursed by warrant of the department of finance and administration on vouchers signed by the secretary of finance and administration following certification by the council that an application has been approved or an expenditure has been ordered by a court pursuant to Section 22-24-5.4 NMSA 1978. At the discretion of the council, money for a project shall be distributed as follows:

(1) up to ten percent of the portion of the project cost funded with distributions from the fund or five percent of the total project cost, whichever is greater,

may be paid to the school district before work commences with the balance of the grant award made on a cost-reimbursement basis; or

(2) the council may authorize payments directly to the contractor.

G. Balances in the fund may be annually appropriated for the core administrative functions of the public school facilities authority pursuant to the Public School Capital Outlay Act, and, in addition, balances in the fund may be expended by the public school facilities authority, upon approval of the council, for project management expenses; provided that:

(1) the total annual expenditures from the fund for the core administrative functions pursuant to this subsection shall not exceed five percent of the average annual grant assistance authorized from the fund during the three previous fiscal years; and

(2) any unexpended or unencumbered balance remaining at the end of a fiscal year from the expenditures authorized in this subsection shall revert to the fund.

H. Up to fifteen million dollars (\$15,000,000) of the fund may be expended annually by the council for expenditure in fiscal years 2016 through 2020 for a building system repair, renovation or replacement initiative with projects to be identified by the council pursuant to Section 3 of this 2015 act; provided that money allocated pursuant to this subsection shall be expended within three years of the allocation.

I. The fund may be expended annually by the council for grants to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools. The grants shall be made upon application by the school districts and pursuant to rules adopted by the council; provided that an application on behalf of a charter school shall be made by the school district, but, if the school district fails to make an application on behalf of a charter school, the charter school may submit its own application. The following criteria shall apply to the grants:

(1) the amount of a grant to a school district shall not exceed:

(a) the actual annual lease payments owed for leasing classroom space for schools, including charter schools, in the district; or

(b) seven hundred dollars (\$700) multiplied by the number of MEM using the leased classroom facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage change between the penultimate calendar year and the immediately preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor;

(2) a grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants pursuant to the federal No Child Left Behind Act of 2001;

(3) at the end of each fiscal year, any unexpended or unencumbered balance of the appropriation shall revert to the fund;

(4) no grant shall be made for lease payments due pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made unless:

(a) the agreement has been approved pursuant to the provisions of the Public School Lease Purchase Act; and

(b) the facilities are leased by a charter school;

(5) if the lease payments are made pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made, neither a grant nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facilities nor does it create a legal obligation for the state to make subsequent grants pursuant to the provisions of this subsection; and

(6) as used in this subsection:

(a) "MEM" means: 1) the average full-time-equivalent enrollment using leased classroom facilities on the eightieth and one hundred twentieth days of the prior school year; or 2) in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased classroom facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the eightieth day of the school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date; and

(b) "classroom facilities" or "classroom space" includes the space needed, as determined by the minimum required under the statewide adequacy standards, for the direct administration of school activities.

J. In addition to other authorized expenditures from the fund, up to one percent of the average grant assistance authorized from the fund during the three previous fiscal years may be expended in each fiscal year by the public school facilities 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

public school facilities 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 Paragraph (5) of 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 eightieth and one hundred twentieth days 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 eightieth and one hundred twentieth days 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 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978, would be less than fifty percent; and 4) for all educational purposes, the school district has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds.

L. Upon application by a school district, allocations from the fund may be made by the council for the purpose of demolishing abandoned school district facilities, provided that:

(1) the costs of continuing to insure an abandoned facility outweigh any potential benefit when and if a new facility is needed by the school district;

(2) there is no practical use for the abandoned facility without the expenditure of substantial renovation costs; and

(3) the council may enter into an agreement with the school district under which an amount equal to the savings to the district in lower insurance premiums are used to reimburse the fund fully or partially for the demolition costs allocated to the district.

M. Up to ten million dollars (\$10,000,000) of the fund may be expended each year in fiscal years 2014 through 2019 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."

Chapter 93 Section 3 Laws 2015

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

"BUILDING SYSTEM REPAIR, RENOVATION OR REPLACEMENT.--

A. The council shall develop guidelines for a building system repair, renovation or replacement initiative pursuant to the provisions of this section.

B. A school district desiring a grant award pursuant to this section shall submit an application to the council. The application shall include an assessment of the building system that, in the opinion of the school district, the repair, renovation or replacement of which would extend the useful life of the building itself.

C. The public school facilities authority shall verify the assessment made by the school district and rank the application with similar applications pursuant to a methodology adopted by the council.

D. After a public hearing and to the extent that money is available in the fund for such purposes, the council shall approve building system repair, renovation or replacement projects on the established priority basis; provided that no project shall be approved unless the council determines that the school district is willing and able to pay the portion of the total cost of the project that is not funded with grant assistance from the fund.

E. The state share of the cost of an approved building system repair, renovation or replacement project shall be calculated pursuant to the methodology in Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978.

F. A grant made pursuant to this section shall be expended by the school district within three years of the grant allocation."

Chapter 93 Section 4 Laws 2015

SECTION 4. 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 3 of this 2015 act;

(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) except as provided in Paragraph (6), (8), (9) or (10) of this subsection, the state share of a project approved and ranked by the council shall be funded within available resources pursuant to the provisions of this paragraph. No later than May 1 of each calendar year, a value shall be calculated for each school district in accordance with the following procedure:

(a) the final prior year net taxable value for a school district divided by the MEM for that school district is calculated for each school district;

(b) the final prior year net taxable value for the whole state divided by the MEM for the state is calculated;

(c) excluding any school district for which the result calculated pursuant to Subparagraph (a) of this paragraph is more than twice the result calculated pursuant to Subparagraph (b) of this paragraph, the results calculated pursuant to Subparagraph (a) of this paragraph are listed from highest to lowest;

(d) the lowest value listed pursuant to Subparagraph (c) of this paragraph is subtracted from the highest value listed pursuant to that subparagraph;

(e) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is subtracted from the highest value listed in Subparagraph (c) of this paragraph;

(f) the result calculated pursuant to Subparagraph (e) of this paragraph is divided by the result calculated pursuant to Subparagraph (d) of this paragraph;

(g) the sum of the property tax mill levies for the prior tax year imposed by each school district on residential property pursuant to Chapter 22, Article 18 NMSA 1978, the Public School Capital Improvements Act, the Public School Buildings Act, the Education Technology Equipment Act and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978 is calculated for each school district;

(h) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the highest value calculated pursuant to that subparagraph;

(i) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the value calculated pursuant to that subparagraph for the subject school district;

(j) the value calculated pursuant to Subparagraph (i) of this paragraph is divided by the value calculated pursuant to Subparagraph (h) of this paragraph;

(k) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is less than five-tenths, then, except as provided in Subparagraph (n) or (o) of this paragraph, the value for that school district equals the value calculated pursuant to Subparagraph (f) of this paragraph;

(l) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then that value is multiplied by five-hundredths;

(m) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then the value calculated pursuant to Subparagraph (l) of this paragraph is added to the value calculated pursuant to Subparagraph (f) of this paragraph. Except as provided in Subparagraph (n) or (o) of this paragraph, the sum equals the value for that school district;

(n) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value less than one-tenth, one-tenth shall be used as the value for the subject school district;

(o) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value greater than one, one shall be used as the value for the subject school district;

(p) except as provided in Section 22-24-5.7 NMSA 1978 and except as adjusted pursuant to Paragraph (6), (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 a fraction the numerator of which is the value calculated for the subject school district in the current year plus the value calculated for that school district in each of the two preceding years and the denominator of which is three; and

(q) as used in this paragraph: 1) "MEM" means the average full-time-equivalent enrollment of students attending public school in a school district on the eightieth and one hundred twentieth days of the prior school year; 2) "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; and 3) in the case of a state-chartered charter school that has submitted an application for grant assistance pursuant to this section, the "value calculated for the subject school district" means the value calculated for the school district in which the state-chartered charter school is physically located;

(6) the amount calculated pursuant to Subparagraph (p) of Paragraph (5) of this subsection shall be reduced by the following procedure:

(a) the total of all legislative appropriations made after January 1, 2003 for nonoperating purposes either directly to the subject school district or to another governmental entity for the purpose of passing the money through directly to the subject school district, and not rejected by the subject school district, is calculated; provided that: 1) an appropriation made in a fiscal year shall be deemed to be accepted by a school district unless, prior to June 1 of that fiscal year, the school district notifies the department of finance and administration and the public education department that the school district is rejecting the appropriation; 2) the total shall exclude any education technology appropriation made prior to January 1, 2005 unless the appropriation was on or after January 1, 2003 and not previously used to offset distributions pursuant to the Technology for Education Act; 3) the total shall exclude any appropriation previously made to the subject school district that is reauthorized for expenditure by another recipient; 4) the total shall exclude one-half of the amount of any appropriation made or reauthorized after January 1, 2007 if the purpose of the appropriation or reauthorization is to fund, in whole or in part, a capital outlay project that, when prioritized by the council pursuant to this section either in the immediately preceding funding cycle or in the current funding cycle, ranked in the top one hundred fifty projects statewide; 5) the total shall exclude the proportionate share of any appropriation made or reauthorized after January 1, 2008 for a capital project that will be jointly used by a governmental entity other than the subject school district. Pursuant to criteria adopted by rule of the council and based upon the proposed use of the capital project, the council shall determine the proportionate share to be used by the governmental entity and excluded from the total; and 6) unless the grant award is made to the state-chartered charter school or unless the appropriation was previously used to calculate a reduction pursuant to this paragraph, the total shall exclude appropriations made after January 1, 2007 for nonoperating purposes of a specific state-chartered charter school, regardless of whether the charter school is a state-chartered charter school at the time of the appropriation or later opts to become a state-chartered charter school;

(b) the applicable fraction used for the subject school district and the current calendar year for the calculation in Subparagraph (p) of Paragraph (5) of this subsection is subtracted from one;

(c) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is multiplied by the amount calculated pursuant to Subparagraph (b) of this paragraph for that school district;

(d) the total amount of reductions for the subject school district previously made pursuant to Subparagraph (e) of this paragraph for other approved public school capital outlay projects is subtracted from the amount calculated pursuant to Subparagraph (c) of this paragraph; and

(e) the amount calculated pursuant to Subparagraph (p) of Paragraph (5) of this subsection shall be reduced by the amount calculated pursuant to Subparagraph (d) of this paragraph;

(7) as used in this subsection:

(a) "governmental entity" includes an Indian nation, tribe or pueblo; and

(b) "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;

(8) the amount calculated pursuant to Subparagraph (p) of Paragraph (5) of this subsection, after any reduction 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 eightieth and one hundred twentieth days 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 (5), (6), (8) or (9) of this subsection, is not funded with grant assistance from the fund; provided that school district funds used for a project that was initiated after September 1, 2002 when the statewide adequacy standards were adopted, but before September 1, 2004 when the standards were first used as the basis for determining the state and

school district share of a project, may be applied to the school district portion required for that project;

(f) the application includes the capital needs of any charter school located in the school district or the school district has shown that the facilities of the charter school have a smaller deviation from the statewide adequacy standards than other district facilities included in the application; and

(g) the school district has agreed, in writing, to comply with any reporting requirements or conditions imposed by the council pursuant to Section 22-24-5.1 NMSA 1978.

C. After consulting with the public school capital outlay oversight task force and other experts, the council shall regularly review and update statewide adequacy standards applicable to all school districts. The standards shall establish the acceptable level for the physical condition and capacity of buildings, the educational suitability of facilities and the need for education technology infrastructure. Except as otherwise provided in the Public School Capital Outlay Act, the amount of outstanding deviation from the standards shall be used by the council in evaluating and prioritizing public school capital outlay projects.

D. The acquisition of a facility by a school district or charter school pursuant to a financing agreement that provides for lease payments with an option to purchase for a price that is reduced according to lease payments made may be considered a public school capital outlay project and eligible for grant assistance under this section pursuant to the following criteria:

(1) no grant shall be awarded unless the council determines that, at the time of exercising the option to purchase the facility by the school district or charter school, the facility will equal or exceed the statewide adequacy standards and the building standards for public school facilities;

(2) no grant shall be awarded unless the school district and the need for the facility meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act;

(3) the total project cost shall equal the total payments that would be due under the agreement if the school district or charter school would eventually acquire title to the facility;

(4) the portion of the total project cost to be paid from the fund may be awarded as one grant, but disbursements from the fund shall be made from time to time as lease payments become due;

(5) the portion of the total project cost to be paid by the school district or charter school may be paid from time to time as lease payments become due; and

(6) neither a grant award nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facility.

E. In order to encourage private capital investment in the construction of public school facilities, the purchase of a privately owned school facility that is, at the time of application, in use by a school district may be considered a public school capital outlay project and eligible for grant assistance pursuant to this section if the council finds that:

(1) at the time of the initial use by the school district, the facility to be purchased equaled or exceeded the statewide adequacy standards and the building standards for public school facilities;

(2) at the time of application, attendance at the facility to be purchased is at seventy-five percent or greater of design capacity and the attendance at other schools in the school district that the students at the facility would otherwise attend is at eighty-five percent or greater of design capacity; and

(3) the school district and the capital outlay project meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act; provided that, when determining the deviation from the statewide adequacy standards for the purposes of evaluating and prioritizing the project, the students using the facility shall be deemed to be attending other schools in the school district.

F. It is the intent of the legislature that grant assistance made pursuant to this section allows every school district to meet the standards developed pursuant to Subsection C of this section; provided, however, that nothing in the Public School Capital Outlay Act or the development of standards pursuant to that act prohibits a school district from using other funds available to the district to exceed the statewide adequacy standards.

G. Upon request, the council shall work with, and provide assistance and information to, the public school capital outlay oversight task force.

H. The council may establish committees or task forces, not necessarily consisting of council members, and may use the committees or task forces, as well as existing agencies or organizations, to conduct studies, conduct surveys, submit recommendations or otherwise contribute expertise from the public schools, programs, interest groups and segments of society most concerned with a particular aspect of the council's work.

I. Upon the recommendation of the public school facilities authority, the council shall develop building standards for public school facilities and shall promulgate other such rules as are necessary to carry out the provisions of the Public School Capital Outlay Act.

J. No later than December 15 of each year, the council shall prepare a report summarizing its activities during the previous fiscal year. The report shall describe in detail all projects funded, the progress of projects previously funded but not completed, the criteria used to prioritize and fund projects and all other council actions. The report shall be submitted to the public education commission, the governor, the legislative finance committee, the legislative education study committee and the legislature."

Chapter 93 Section 5 Laws 2015

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 128

Approved April 8, 2015

LAWS 2015, CHAPTER 94

AN ACT

RELATING TO MILITARY AFFAIRS; CREATING THE SENIOR MASTER SERGEANT JESSEY BACA MILITARY AIRBORNE HAZARDS AND OPEN BURN PIT REGISTRY ACT.

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

Chapter 94 Section 1 Laws 2015

SECTION 1. SHORT TITLE.--This act may be cited as the "Senior Master Sergeant Jessey Baca Military Airborne Hazards and Open Burn Pit Registry Act".

Chapter 94 Section 2 Laws 2015

SECTION 2. MILITARY AIRBORNE HAZARDS AND OPEN BURN PIT REGISTRY--CREATION--DUTIES.--For the purposes of outreach, education and advocacy for New Mexico service members and veterans who have been exposed to open burn pit smoke or other airborne hazards during their service in operation Iraqi

freedom, operation enduring freedom, operation new dawn, the Gulf War 1990-1991 or other conflicts or theaters that may subsequently be identified, the secretary of veterans' services shall:

A. identify a subject-matter expert at the United States department of veterans affairs who has the ability and capacity to assist veterans seeking medical care or assistance with the department of veterans affairs' claims process;

B. make available to veterans the most current medical studies and recommendations with regards to inhalation of toxic substances due to exposure to open burn pits; and

C. establish and maintain a public information program to educate and inform service members, veterans and their families regarding:

(1) how to sign up and use the United States department of veterans affairs burn pit registry and information regarding the veterans health administration's presumptive conditions or diseases believed to have been caused by exposure to open burn pits;

(2) the types of treatment offered by the veterans health administration that are available for any conditions or diseases caused by exposure to open burn pits and care offered outside the veterans health administration that have been approved for medical use;

(3) how to document medical conditions that may be related to exposure to open burn pits and how to apply for a service-connected disability through the United States department of veterans affairs; and

(4) appealing an existing disability rating decision or requesting an upgrade in disability rating from the United States department of veterans affairs.

Chapter 94 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SFC/Senate Bill 144

Approved April 8, 2015

LAWS 2015, CHAPTER 95

AN ACT

RELATING TO PUBLIC FINANCES; MAKING ADMINISTRATIVE CHANGES APPLICABLE TO THE STATE INVESTMENT COUNCIL, STATE INVESTMENT OFFICER AND INVESTMENT OFFICE AND LIMITING THEIR LIABILITY; ELIMINATING THE PRIVATE EQUITY INVESTMENT ADVISORY COMMITTEE; PROVIDING FOR INDEMNIFICATION.

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

Chapter 95 Section 1 Laws 2015

SECTION 1. Section 6-8-1 NMSA 1978 (being Laws 1957, Chapter 179, Section 1, as amended by Laws 1997, Chapter 135, Section 1 and by Laws 1997, Chapter 183, Section 1) 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 pursuant to the provisions of 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, severance tax permanent fund, tobacco settlement permanent fund and water trust fund;

E. "secretary" means the secretary of finance and administration;

F. "severance tax permanent fund" means the fund established pursuant to the provisions of Article 8, Section 10 of the constitution of New Mexico;

G. "tobacco settlement permanent fund" means the fund established pursuant to the provisions of Section 6-4-9 NMSA 1978; and

H. "water trust fund" means the fund established pursuant to the provisions of Article 16, Section 6 of the constitution of New Mexico."

Chapter 95 Section 2 Laws 2015

SECTION 2. Section 6-8-3 NMSA 1978 (being Laws 1957, Chapter 179, Section 3, as amended) is amended to read:

"6-8-3. COUNCIL TERMS AND QUALIFICATIONS.--

A. Members of the council appointed pursuant to Paragraphs (6) and (7) of Subsection A of Section 6-8-2 NMSA 1978, with the advice and consent of the senate, shall serve for staggered terms of five years. Members of the council shall serve until their successors are appointed and have qualified.

B. The members of the council appointed pursuant to Paragraphs (6) and (7) of Subsection A of Section 6-8-2 NMSA 1978 shall be qualified by competence and no less than ten years' experience in the field of investment management, investment risk management, corporate governance, investment accounting or finance. A member of the council shall not have had any contracts to do business with the council, the investment office, the office of the state treasurer, the educational retirement board, the public employees retirement association, the New Mexico finance authority or the state board of finance for a period of two calendar years prior to the person's appointment to the council and shall not enter into any contracts to do business with any of the named state agencies or instrumentalities for a period of two calendar years after the end of the term for which the member was appointed. Members of the council and officers and employees of the council shall be governed by the provisions of the Governmental Conduct Act. Nothing in this section or in the Governmental Conduct Act shall be construed as prohibiting an officer of a financial institution from participating as a member of the council in setting general policies of the council, nor shall any provision of the Governmental Conduct Act prohibit the council or the state treasurer from depositing funds under the jurisdiction of the council in any financial institution. A council member shall not hold an office or employment in a political party.

C. The member appointed pursuant to Paragraph (5) of Subsection A of Section 6-8-2 NMSA 1978 shall serve at the pleasure of the governor. A member of the council appointed pursuant to Paragraphs (6) and (7) of Subsection A of Section 6-8-2 NMSA 1978 may be removed from the council by the appointing person or entity, for failure to attend three consecutive meetings or other cause, in the manner provided for removal of members of boards of regents under Article 12, Section 13 of the constitution of New Mexico. A vacancy in the membership of the council occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only."

Chapter 95 Section 3 Laws 2015

SECTION 3. Section 6-8-4 NMSA 1978 (being Laws 1957, Chapter 179, Section 4, as amended) is amended to read:

"6-8-4. INVESTMENT OFFICE--STATE INVESTMENT OFFICER--TERMS.--

A. There is established an "investment office". The chief administrative officer of the office shall be known as the "state investment officer".

B. The state investment officer shall be appointed by the council. The state investment officer shall devote the officer's entire time and attention to the duties of that office and shall not engage in any other occupation or profession or hold any other public office, appointive or elective. The state investment officer shall be an individual qualified by at least ten years of investment and executive experience to direct the work of the investment office. The state investment officer shall appoint a deputy state investment officer, with at least seven years' professional experience in the field of institutional investment management, to serve as the chief investment officer. The state investment officer shall receive a salary to be determined by the council.

C. The state investment officer shall serve at the will of the council."

Chapter 95 Section 4 Laws 2015

SECTION 4. Section 6-8-5 NMSA 1978 (being Laws 1957, Chapter 179, Section 5, as amended) is amended to read:

"6-8-5. BOND--STAFF--BUDGET.--

A. Before the state investment officer or other responsible employee of the investment office enters upon the officer's or employee's duties, the secretary shall require an individual bond or include the state investment officer and all employees of the investment office under a blanket bond for an amount and for a coverage deemed best to protect the state's interest. The bond premiums shall be paid by the state.

B. The state investment officer shall annually prepare a budget for administering and investing all funds managed by the investment office, which shall be reviewed and approved by the council. Any funds provided for the operating budget of the investment office shall be appropriated by the legislature from the assets of the land grant permanent funds, the severance tax permanent fund, funds available for investment pursuant to Subsection I of Section 6-8-7 NMSA 1978 or any other funds managed by the investment office, as authorized by law.

C. Amounts budgeted or appropriated from the land grant permanent funds and the severance tax permanent fund for the costs of administering and investing those funds shall be in addition to the amounts distributed to the beneficiaries of the land grant permanent funds and to the general fund from the severance tax permanent fund as provided by law.

D. The state investment officer shall appoint all employees of the investment office."

Chapter 95 Section 5 Laws 2015

SECTION 5. Section 6-8-7 NMSA 1978 (being Laws 1957, Chapter 179, Section 7, as amended) is amended to read:

"6-8-7. POWERS AND DUTIES OF THE STATE INVESTMENT COUNCIL AND STATE INVESTMENT OFFICER--INVESTMENT POLICY--INVESTMENT MANAGERS.--

A. Subject to the limitations, conditions and restrictions contained in policymaking regulations or resolutions adopted by the council, the council may make purchases, sales, exchanges, investments and reinvestments of the assets of all funds in accordance with the Uniform Prudent Investor Act. The state investment officer and the council are trustees of all funds under their control and shall see that money invested is at all times handled in the best interests of the state. The council may delegate administrative and investment-related functions to the state investment officer.

B. The state investment officer shall formulate and recommend to the council for approval investment regulations or resolutions pertaining to the kind or nature of investments and limitations, conditions and restrictions upon the methods, practices or procedures for investment, reinvestment, purchase, sale or exchange transactions that should govern the activities of the investment office.

C. The council shall meet at least ten times per year, and as often as exigencies may demand, to consult with the state investment officer concerning the work of the investment office. The council shall have access to all files and records of the investment office and shall require the state investment officer to report on and provide information necessary to the performance of council functions. The council may hire investment management or consulting firms to advise the council with respect to the council's investment decisions for the investment of funds managed by the investment office and pay reasonable compensation for such management or consulting services from the assets of the applicable funds, subject to budgeting and appropriation by the legislature. The terms of any such investment management or consulting services contract shall incorporate the statutory requirements for investment of funds under the council's jurisdiction. Prior to being hired, a prospective investment management, advisory or consulting services firm shall submit to the council a disclosure detailing all campaign contributions made within the last two years by the firm or the principals of the firm to any member of the council, or to a political committee or other entity that is intended to aid or promote the nomination or election of any council member to a political office.

D. The council shall provide an opportunity for public comment at meetings of the council. Advance notice of meetings shall be published on the council's web site and in a newspaper of general circulation at least ten days in advance of the meeting.

E. All funds managed by the state investment officer shall be managed in accordance with the Uniform Prudent Investor Act. The council may form and use committees to study and make recommendations to the council. Prior to commencing work for the council, a committee member who is not a member of the council shall submit to the council a disclosure detailing all campaign contributions made within the

last two years to any member of the council or to a political committee or other entity that is intended to aid or promote the nomination or election of any council member to a political office.

F. Fiduciaries of the permanent funds are:

- (1) the council;
- (2) the state investment officer and investment office staff;
- (3) any person providing investment advice to the council, the state investment officer or investment office staff for an investment management, advisory or consulting services fee; and
- (4) all persons exercising discretionary authority over or control of funds under the management of the council.

G. The council may contract for legal services for litigation on a contingent or partly contingent fee basis, subject to an expedited solicitation process devised and approved by the council; provided that:

- (1) amounts recovered by the legal services contractor shall be deposited in the state investment council suspense fund;
- (2) the council shall submit each proposed contract to the attorney general and the department for review of the contingency fee. The attorney general's and the department's review shall take into account the complexity of the factual and legal issues presented by the claims to be pursued under the contract. If the attorney general or the department advises the council that the proposed contingency fee is not reasonable, the council may nevertheless approve the contract and the contingency fee by a majority vote of its members; and
- (3) each prospective legal services contractor seeking to represent the council on a contingent or partly contingent fee basis shall file with the council the disclosure required by Section 13-1-191.1 NMSA 1978 disclosing all campaign contributions made to the governor, attorney general, state treasurer or any member of the council, or to a political committee that is intended to aid or promote the nomination or election of any candidate to a state office if the committee is:
 - (a) established by any of the foregoing persons or their agents;
 - (b) established in consultation with or at the request of any of the foregoing persons or their agents; or

(c) controlled by one of the foregoing persons or their agents.

H. The council may select and contract for the services of one or more custodian banks for all funds under the council's management. For the purpose of this subsection, "custodian bank" means a financial institution with the general fiduciary duties to manage, control and collect the assets of an investment fund, including receiving all deposits and paying all disbursements as directed by staff, safekeeping of assets, coordination of asset transfers, timely settlement of securities transactions and accurate and timely reporting of the assets by individual account and in total.

I. For funds available for investment for more than one year, the council may contract with any state agency to provide investment advisory or investment management services, separately or through a pooled investment fund; provided that the state agency enters into a joint powers agreement with the council and that the state agency pays at least the direct cost of such services. Notwithstanding any statutory provision governing state agency investments, the council may invest funds available from a state agency pursuant to a joint powers agreement in any type of investment permitted for the land grant permanent funds under the prudent investor rule. In performing investment services for a state agency, the council and the state investment officer and investment office staff are exempt from the New Mexico Uniform Securities Act. As used in this subsection, "state agency" means any branch, agency, department, board, instrumentality, institution or political subdivision of the state, the New Mexico finance authority, the New Mexico mortgage finance authority and any tax-exempt private endowment entity whose sole beneficiary is a state agency or whose beneficiaries are students attending a public educational institution in the state.

J. The state investment officer shall provide quarterly performance reports to the legislative finance committee. Annually, the state investment officer shall ratify and provide written investment policies, including any amendments, to the legislative finance committee.

K. Council members, the state investment officer and investment office staff and committee members appointed by the council, jointly and severally, shall be indemnified by the state, out of the permanent funds, from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney fees, against all claims, liability, losses or damages arising from any decisions made or actions taken while acting within the scope of duty and pursuant to law as a council member, the state investment officer, investment office staff or a committee member appointed by the council. Following indemnification, if it is shown that the indemnified person acted fraudulently or with intentional malice, the state shall have the right to recover from the indemnified person any amount expended under this subsection."

Chapter 95 Section 6 Laws 2015

SECTION 6. Section 6-8-11 NMSA 1978 (being Laws 1957, Chapter 179, Section 11, as amended) is amended to read:

"6-8-11. CUSTODY OF SECURITIES.--Securities purchased or held by the state investment officer or the council shall be in the custody of a custodian bank contracted pursuant to the provisions of Subsection H of Section 6-8-7 NMSA 1978."

Chapter 95 Section 7 Laws 2015

SECTION 7. Section 6-8-13 NMSA 1978 (being Laws 1957, Chapter 179, Section 13, as amended) is amended to read:

"6-8-13. RECORD OF INVESTMENTS.--The investment office shall keep accurate and complete records and accounts concerning the state investment portfolio."

Chapter 95 Section 8 Laws 2015

SECTION 8. Section 6-8-14 NMSA 1978 (being Laws 1957, Chapter 179, Section 14, as amended) is amended to read:

"6-8-14. MONTHLY REPORTS.--No later than twenty days after the end of each month, the state investment officer shall submit to the council a report of the operations of the investment office during the past month. Each report shall include a schedule of cumulative fiscal year actual and budgeted expenditures and a monthly summary of contributions, distributions, fees, income and net gains or losses for each permanent fund and investment pool. The reports shall be published on the web site of the council and the sunshine portal and shall be open for inspection to the public and the press in the investment office."

Chapter 95 Section 9 Laws 2015

SECTION 9. Section 7-27-5.15 NMSA 1978 (being Laws 1990, Chapter 126, Section 5, as amended) is amended to read:

"7-27-5.15. NEW MEXICO PRIVATE EQUITY FUNDS AND BUSINESS INVESTMENTS.--

A. No more than nine percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

B. In making investments pursuant to Subsection A of this section, the council shall make investments in New Mexico private equity funds or New Mexico businesses whose investments or enterprises enhance the economic development objectives of the state.

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council and within guidelines and policies established by the council.

D. As used in this section:

(1) "New Mexico business" means, in the case of a corporation or limited liability company, a business with its principal office and a majority of its full-time employees located in New Mexico or, in the case of a limited partnership, a business with its principal place of business and eighty percent of its assets located in New Mexico; and

(2) "New Mexico private equity fund" means a limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a full-time investment officer in New Mexico that:

(a) has as its primary business activity the investment of funds in return for equity in or debt of businesses for the purpose of providing capital for start-up, expansion, product or market development, recapitalization or similar business purposes;

(b) holds out the prospects for capital appreciation from such investments;

(c) has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans and who has established permanent residency in the state;

(d) is committed to investing or helps secure investing by others, in an amount at least equal to the total investment made by the state investment officer in that fund pursuant to this section, in businesses with a principal place of business in the state and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in the state; and

(e) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended (15 USCA Section 77(b)), and rules and regulations promulgated pursuant to that section, or federally recognized Indian tribes, nations and pueblos with at least five million dollars (\$5,000,000) in overall investment assets.

E. The state investment officer is authorized to make investments in New Mexico businesses to create new job opportunities and to support new, emerging or expanding businesses in a manner consistent with the constitution of New Mexico if:

(1) the investments are made:

(a) in conjunction with cooperative investment agreements with parties that have demonstrated abilities and relationships in making investments in new, emerging or expanding businesses;

(b) in a New Mexico aerospace business that has received an award from the United States government or one of its agencies or instrumentalities: 1) in an amount, not less than one hundred million dollars (\$100,000,000), that is equal to at least ten times the investment from the severance tax permanent fund; and 2) for the purpose of stimulating commercial enterprises; or

(c) in a New Mexico business that: 1) is established to perform technology transfer, research and development, research commercialization, manufacturing, training, marketing or public relations in any field of science or technology, including but not limited to energy, security, defense, aerospace, automotives, electronics, telecommunications, computer and information science, environmental science, biomedical science, life science, physical science, materials science or nanoscience, using research developed in whole or in part by a state institution of higher education or a prime contractor designated as a national laboratory by an act of congress that is operating a facility in the state, or an affiliated entity; and 2) has an agreement to operate the business on state lands;

(2) an investment in any one business does not exceed ten percent of the amount available for investment pursuant to this section; and

(3) the investments represent no more than fifty-one percent of the total investment capital in a business; provided, however, that nothing in this subsection prohibits the ownership of more than fifty-one percent of the total investment capital in a New Mexico business if the additional ownership interest:

(a) is due to foreclosure or other action by the state investment officer pursuant to agreements with the business or other investors in that business;

(b) is necessary to protect the investment; and

(c) does not require an additional investment of the severance tax permanent fund.

F. The state investment officer shall make a commitment to the small business investment corporation pursuant to the Small Business Investment Act to invest one percent of the market value of the severance tax permanent fund to create new job opportunities by providing capital for land, buildings or infrastructure for facilities to support new or expanding businesses and to otherwise make investments to create new job opportunities to support new or expanding businesses in a manner consistent with the constitution of New Mexico. On July 1 of each year, the state investment officer shall determine whether the invested capital in the small business investment

corporation is less than one percent of the market value of the severance tax permanent fund. If the invested capital in the small business investment corporation equals less than one percent of the market value of the severance tax permanent fund, further commitments shall be made until the invested capital is equal to one percent of the market value of the fund.

G. The state investment officer shall report semiannually on the New Mexico private equity investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information about the objectives of the funds, the companies in which each fund is invested and how each investment enhances the economic development objectives of the state. Each report shall provide the amounts invested in each New Mexico business."

Chapter 95 Section 10 Laws 2015

SECTION 10. Section 7-27-5.26 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 6, Section 2, as amended) is amended to read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW MEXICO.--

A. No more than six percent of the market value of the severance tax permanent fund may be invested in New Mexico film private equity funds or a New Mexico film project under this section.

B. If an investment is made under this section, not more than fifteen million dollars (\$15,000,000) of the amount authorized for investment pursuant to Subsection A of this section shall be invested in any one New Mexico film private equity fund or any one New Mexico film project.

C. The state investment officer shall make investments pursuant to this section only upon approval of the council after a review by the New Mexico film division of the economic development department. The state investment officer may make debt or equity investments pursuant to this section only in New Mexico film projects or New Mexico film private equity funds that invest only in film projects that:

(1) are filmed wholly or substantially in New Mexico;

(2) have shown to the satisfaction of the New Mexico film division that a distribution contract is in place with a reputable distribution company;

(3) have agreed that, while filming in New Mexico, a majority of the production crew will be New Mexico residents;

(4) have posted a completion bond that has been approved by the New Mexico film division; provided that a completion bond shall not be required if the fund or project is guaranteed pursuant to Paragraph (5) of this subsection; and

(5) have obtained a full, unconditional and irrevocable guarantee of repayment of the invested amount in favor of the severance tax permanent fund:

(a) from an entity that has a credit rating of not less than Baa or BBB by a national rating agency;

(b) from a substantial subsidiary of an entity that has a credit rating of not less than Baa or BBB by a national rating agency;

(c) by providing a full, unconditional and irrevocable letter of credit from a United States incorporated bank with a credit rating of not less than A by a national rating agency; or

(d) from a substantial and solvent entity as determined by the council in accordance with its standards and practices; or

(6) if not guaranteed pursuant to Paragraph (5) of this subsection, have obtained no less than one-third of the estimated total production costs from other sources as approved by the state investment officer.

D. The state investment officer may loan at a market rate of interest, with respect to an eligible New Mexico film project, up to eighty percent of an expected and estimated film production tax credit available to a film production company pursuant to the provisions of Section 7-2F-1 NMSA 1978; provided that the film production company agrees to name the state investment officer as its agent for the purpose of filing an application for the film production tax credit to which the company is entitled if the company does not apply for the film production tax credit. The New Mexico film division of the economic development department shall determine the estimated amount of a film production tax credit. The council shall establish guidelines for the state investment officer's initiation of a loan and the terms of the loan.

E. As used in this section:

(1) "film project" means a single media or multimedia program, including advertising messages, fixed on film, videotape, computer disc, laser disc or other similar delivery medium from which the program can be viewed or reproduced and that is intended to be exhibited in theaters; licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for the home viewing market; and

(2) "New Mexico film private equity fund" means any limited partnership, limited liability company or corporation organized and operating in the United States that:

(a) has as its primary business activity the investment of funds in return for equity in film projects produced wholly or partly in New Mexico;

(b) holds out the prospects for capital appreciation from such investments; and

(c) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended, and rules promulgated pursuant to that section."

Chapter 95 Section 11 Laws 2015

SECTION 11. REPEAL.--Section 6-8-20 NMSA 1978 (being Laws 1987, Chapter 219, Section 3, as amended) is repealed.

SFC/Senate Bill 174

Approved April 8, 2015

LAWS 2015, CHAPTER 96

AN ACT

RELATING TO PUBLIC HEALTH; MAKING NON-COMPETE PROVISIONS IN CERTAIN HEALTH CARE PRACTITIONER AGREEMENTS UNENFORCEABLE.

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

Chapter 96 Section 1 Laws 2015

SECTION 1. DEFINITIONS.--As used in this act:

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; and
- (5) a certified registered nurse anesthetist.

Chapter 96 Section 2 Laws 2015

SECTION 2. ENFORCEABILITY OF A NON-COMPETE PROVISION.--A non-compete provision in an agreement, which provision restricts the right of a health care practitioner to provide clinical health care services, shall be unenforceable upon the termination of:

- A. the agreement;
- B. a renewal or extension of the agreement; or
- C. a health care practitioner's employment with a party seeking to enforce the agreement.

Chapter 96 Section 3 Laws 2015

SECTION 3. ENFORCEABILITY OF OTHER PROVISIONS.--Nothing in this act shall be construed to limit the enforceability of:

A. a provision in an agreement requiring a health care practitioner who has worked for an employer for an initial period of less than three years to repay all or a portion of:

- (1) a loan;
 - (2) relocation expenses;
 - (3) a signing bonus or other remuneration to induce the health care practitioner to relocate or establish a health care practice in a specified geographic area; or
 - (4) recruiting, education and training expenses;
- B. a nondisclosure provision relating to confidential information and trade secrets;

C. a nonsolicitation provision with respect to patients and employees of the party seeking to enforce the agreement for a period of one year or less after the last date of employment; or

D. any other provision of an agreement that is not in violation of law, including a provision for liquidated damages.

Chapter 96 Section 4 Laws 2015

SECTION 4. LIQUIDATED DAMAGES.--

A. An agreement may provide for liquidated damages in an amount that is reasonable at the time the agreement is executed and in light of anticipated harm and difficulty of proving the amount of loss resulting from breach of the agreement by any party.

B. A provision in an agreement fixing unreasonably large liquidated damages is void as a penalty.

Chapter 96 Section 5 Laws 2015

SECTION 5. APPLICABILITY.--

A. This act does not apply to agreements between health care practitioners who are shareholders, owners, partners or directors of a health care practice.

B. The provisions of this act apply to agreements, or renewals or extensions of agreements, executed on or after July 1, 2015.

Senate Bill 325, aa

Approved April 8, 2015

LAWS 2015, CHAPTER 97

AN ACT

RELATING TO EDUCATION; AMENDING THE SCHOOL PERSONNEL ACT TO CHANGE MINIMUM REQUIREMENTS FOR PERSONS SEEKING LICENSURE OR RECIPROCITY IN ELEMENTARY, SPECIAL, EARLY CHILDHOOD OR SECONDARY EDUCATION.

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

Chapter 97 Section 1 Laws 2015

SECTION 1. Section 22-10A-6 NMSA 1978 (being Laws 1986, Chapter 33, Section 8, as amended) is amended to read:

"22-10A-6. EDUCATIONAL REQUIREMENTS FOR LICENSURE.--

A. The department shall require a person seeking licensure or reciprocity in elementary, special, early childhood or secondary education to have completed the following minimum requirements in the college of arts and sciences:

- (1) nine semester hours in communication;
- (2) six semester hours in mathematics;
- (3) eight semester hours in laboratory science;
- (4) nine semester hours in social and behavioral science; and
- (5) nine semester hours in humanities and fine arts.

B. In addition to the requirements specified in Subsections A and C of this section, the department shall require that a person seeking standard or alternative elementary licensure shall have completed six hours of reading courses, and a person seeking standard or alternative secondary licensure shall have completed three hours of reading courses in subject matter content. The department shall establish requirements that provide a reasonable period of time to comply with the provisions of this subsection.

C. Except for licensure by reciprocity, the department shall require, prior to initial licensure, no less than sixteen weeks of student teaching, a portion of which shall occur in the first thirty credit hours taken in the college of education and shall be under the direct supervision of a teacher and a portion of which shall occur in the student's senior year with the student teacher being directly responsible for the classroom.

D. Nothing in this section shall preclude the department from establishing or accepting equivalent requirements for purposes of reciprocal licensure or minimum requirements for alternative licensure.

E. Vocational teacher preparatory programs may be exempt from Subsections A through C of this section upon a determination by the department that other licensure requirements are more appropriate for vocational teacher preparatory programs."

Chapter 97 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

Senate Bill 329, aa

Approved April 8, 2015

LAWS 2015, CHAPTER 98

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING THE TOBACCO PRODUCTS ACT TO CHANGE THE TITLE OF THE ACT TO THE "TOBACCO PRODUCTS, E-CIGARETTE AND NICOTINE LIQUID CONTAINER ACT", TO PROHIBIT SALES OF E-CIGARETTES AND NICOTINE LIQUID CONTAINERS TO MINORS, TO REQUIRE NICOTINE LIQUID CONTAINERS TO BE SOLD IN CHILD-RESISTANT PACKAGING AND TO PROHIBIT THE ONLINE INTERNET SALE OF E-CIGARETTES AND NICOTINE LIQUID CONTAINERS TO A MINOR IN NEW MEXICO; PROVIDING PENALTIES.

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

Chapter 98 Section 1 Laws 2015

SECTION 1. Section 30-49-1 NMSA 1978 (being Laws 1993, Chapter 244, Section 1) is amended to read:

"30-49-1. SHORT TITLE.--Chapter 30, Article 49 NMSA 1978 may be cited as the "Tobacco Products, E-Cigarette and Nicotine Liquid Container Act"."

Chapter 98 Section 2 Laws 2015

SECTION 2. Section 30-49-2 NMSA 1978 (being Laws 1993, Chapter 244, Section 2) is amended to read:

"30-49-2. DEFINITIONS.--As used in the Tobacco Products, E-Cigarette and Nicotine Liquid Container Act:

A. "child-resistant" means a package or container that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean a package or

container that all such children cannot open or obtain a toxic or harmful amount within a reasonable time;

B. "e-cigarette":

(1) means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substances the use or inhalation of which simulates smoking; and

(2) includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor; but

(3) does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq.;

C. "minor" means an individual who is less than eighteen years of age; and

D. "nicotine liquid container" means a bottle or other container of any substance containing nicotine where the substance is sold, marketed or intended for use in an e-cigarette."

Chapter 98 Section 3 Laws 2015

SECTION 3. Section 30-49-3 NMSA 1978 (being Laws 1993, Chapter 244, Section 3) is amended to read:

"30-49-3. TOBACCO PRODUCTS, E-CIGARETTES AND NICOTINE LIQUID CONTAINERS--PROHIBITED SALES.--

A. No person shall knowingly sell, offer to sell, barter or give a tobacco product, an e-cigarette or a nicotine liquid container to a minor.

B. No minor shall procure or attempt to procure any tobacco product, e-cigarette or nicotine liquid container for the minor's own use or for use by another minor.

C. No person shall sell, offer to sell or deliver a tobacco product, an e-cigarette or a nicotine liquid container in a form other than an original factory-sealed package.

D. No person shall sell or offer to sell any nicotine liquid container at retail in this state unless such container is child-resistant; except that for the purpose of this subsection, "nicotine liquid container" does not include a cartridge that is pre-filled and sealed by the manufacturer and that is not intended to be opened by the consumer.

E. The online internet sale of e-cigarettes or nicotine liquid containers to a minor in New Mexico is prohibited."

Chapter 98 Section 4 Laws 2015

SECTION 4. Section 30-49-5 NMSA 1978 (being Laws 1993, Chapter 244, Section 5) is amended to read:

"30-49-5. REFUSAL TO SELL TOBACCO PRODUCTS, E-CIGARETTES OR NICOTINE LIQUID CONTAINERS TO PERSON UNABLE TO PRODUCE IDENTITY CARD.--A person selling goods at retail or wholesale may refuse to sell tobacco products, e-cigarettes or nicotine liquid containers to a person who is unable to produce an identity card as evidence that the person is eighteen years of age or over."

Chapter 98 Section 5 Laws 2015

SECTION 5. Section 30-49-6 NMSA 1978 (being Laws 1993, Chapter 244, Section 6) is amended to read:

"30-49-6. PRESENTING FALSE EVIDENCE OF AGE OR IDENTITY.--No minor shall present any written, printed or photostatic evidence of age or identity that is false for the purpose of procuring or attempting to procure any tobacco products, e-cigarettes or nicotine liquid containers."

Chapter 98 Section 6 Laws 2015

SECTION 6. Section 30-49-7 NMSA 1978 (being Laws 1993, Chapter 244, Section 7, as amended) is amended to read:

"30-49-7. VENDING MACHINES--RESTRICTIONS ON SALES OF TOBACCO PRODUCTS, E-CIGARETTES AND NICOTINE LIQUID CONTAINERS.--

A. Except as provided in Subsections B and C of this section:

(1) a person shall not sell tobacco products, e-cigarettes or nicotine liquid containers at a retail location in New Mexico by any means other than a direct, face-to-face exchange between the customer and the seller or the seller's employee; and

(2) a person selling goods at a retail location in New Mexico shall not use a self-service display for tobacco products, e-cigarettes or nicotine liquid containers. As used in this subsection, "self-service display" means a display to which the public has access without the assistance of the seller or the seller's employee.

B. Tobacco products, e-cigarettes and nicotine liquid containers may be sold by vending machines only in age-controlled locations where minors are not permitted.

C. The provisions of this section do not apply to written, telephonic or electronic sales of tobacco products."

Chapter 98 Section 7 Laws 2015

SECTION 7. Section 30-49-8 NMSA 1978 (being Laws 1993, Chapter 244, Section 8) is amended to read:

"30-49-8. DISTRIBUTION OF TOBACCO PRODUCTS, E-CIGARETTES OR NICOTINE LIQUID CONTAINERS AS FREE SAMPLES PROHIBITED--EXCEPTION.--

A. A person shall not provide free samples of tobacco products, e-cigarettes or nicotine liquid containers to a minor.

B. The provisions of Subsection A of this section shall not apply to an individual who provides free samples of tobacco products, e-cigarettes or nicotine liquid containers in connection with the practice of cultural or ceremonial activities in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a or its successor act."

Chapter 98 Section 8 Laws 2015

SECTION 8. Section 30-49-9 NMSA 1978 (being Laws 1993, Chapter 244, Section 9) is amended to read:

"30-49-9. SIGNS--POINT OF SALE.--A person, firm, corporation, partnership or other entity engaged in the sale at retail of tobacco products, e-cigarettes or nicotine liquid containers shall prominently display in the place where tobacco products, e-cigarettes or nicotine liquid containers are sold and where a tobacco product, e-cigarette or nicotine liquid container vending machine is located a printed sign or decal that reads as follows:

"A PERSON LESS THAN 18 YEARS OF AGE WHO PURCHASES A TOBACCO PRODUCT, AN E-CIGARETTE OR A NICOTINE LIQUID CONTAINER IS SUBJECT TO A FINE OF UP TO \$100.

A PERSON WHO SELLS A TOBACCO PRODUCT, AN E-CIGARETTE OR A NICOTINE LIQUID CONTAINER TO A PERSON LESS THAN 18 YEARS OF AGE IS SUBJECT TO A FINE OF UP TO \$1,000."."

Chapter 98 Section 9 Laws 2015

SECTION 9. Section 30-49-10 NMSA 1978 (being Laws 1993, Chapter 244, Section 10) is amended to read:

"30-49-10. MONITORED COMPLIANCE--INSPECTIONS.--The alcohol and gaming division of the regulation and licensing department and the appropriate law enforcement authorities in each county and municipality shall conduct random, unannounced inspections of facilities where tobacco products, e-cigarettes or nicotine liquid containers are sold to ensure compliance with the provisions of the Tobacco Products, E-Cigarette and Nicotine Liquid Container Act."

Chapter 98 Section 10 Laws 2015

SECTION 10. Section 30-49-11 NMSA 1978 (being Laws 1993, Chapter 244, Section 11) is amended to read:

"30-49-11. PREEMPTION.--When a municipality or county, including a home rule municipality or urban county, adopts an ordinance or a regulation pertaining to sales of tobacco products, e-cigarettes or nicotine liquid containers, the ordinance or regulation shall be consistent with the provisions of the Tobacco Products, E-Cigarette and Nicotine Liquid Container Act."

Chapter 98 Section 11 Laws 2015

SECTION 11. Section 30-49-12 NMSA 1978 (being Laws 1993, Chapter 244, Section 12) is amended to read:

"30-49-12. PENALTY.--

A. Any person who violates any provision of Subsection A, D or E of Section 30-49-3 NMSA 1978 or Section 30-49-7, 30-49-8 or 30-49-9 NMSA 1978 is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Each violation is a separate and distinct offense.

B. Any minor who violates any provision of Subsection B of Section 30-49-3 NMSA 1978 or Section 30-49-6 NMSA 1978 shall be punished by a fine not to exceed one hundred dollars (\$100) or forty-eight hours of community service."

Chapter 98 Section 12 Laws 2015

SECTION 12. A new section of the Tobacco Products, E-Cigarette and Nicotine Liquid Container Act is enacted to read:

"APPLICABILITY.--The provisions of the Tobacco Products, E-Cigarette and Nicotine Liquid Container Act do not apply to the lawful purchase or use by a minor of a tobacco-cessation product approved by the federal food and drug administration."

Chapter 98 Section 13 Laws 2015

SECTION 13. TEMPORARY PROVISION.--Not later than August 1, 2015, the public education department shall revise its tobacco, alcohol and drug free school districts policy to include e-cigarettes and nicotine liquid containers, as defined in Section 30-49-2 NMSA 1978.

SPAC/Senate Bill 433, aa

Approved April 8, 2015

LAWS 2015, CHAPTER 99

AN ACT

RELATING TO OIL AND GAS; AMENDING A SECTION OF THE OIL AND GAS ACT TO PROVIDE FOR BLANKET FINANCIAL ASSURANCE ON ANY WELL HELD IN TEMPORARILY ABANDONED STATUS FOR MORE THAN TWO YEARS; DECLARING AN EMERGENCY.

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

Chapter 99 Section 1 Laws 2015

SECTION 1. Section 70-2-14 NMSA 1978 (being Laws 1977, Chapter 237, Section 3, as amended) is amended to read:

"70-2-14. REQUIREMENT FOR FINANCIAL ASSURANCE.--

A. Each person, firm, corporation or association who operates any oil, gas or service well within the state shall, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond or a well-specific plugging insurance policy pursuant to the provisions of this section to the oil conservation division of the energy, minerals and natural resources department running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with the rules of the oil conservation division. The oil conservation division shall establish categories of financial assurance after notice and hearing. Such categories shall include a blanket plugging financial assurance in an amount not to exceed fifty thousand dollars (\$50,000), except for a blanket plugging financial assurance for temporarily abandoned status wells, which shall be set by rule at amounts greater than fifty thousand dollars (\$50,000), and one-well plugging financial assurance in amounts determined sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance. In establishing categories of

financial assurance, the oil conservation division shall consider the depth of the well involved, the length of time since the well was produced, the cost of plugging similar wells and such other factors as the oil conservation division deems relevant. The oil conservation division shall require a one-well financial assurance on any well that has been held in a temporarily abandoned status for more than two years or, at the election of the operator, may allow an operator to increase its blanket plugging financial assurance to cover wells held in temporarily abandoned status. All financial assurance shall remain in force until released by the oil conservation division. The oil conservation division shall release financial assurance when it is satisfied the conditions of the financial assurance have been fully performed.

B. If any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

C. When any financial assurance is forfeited pursuant to the provisions of the Oil and Gas Act or rules promulgated pursuant to that act, the director of the oil conservation division shall give notice to the attorney general, who shall collect the forfeiture without delay.

D. All forfeitures shall be deposited in the state treasury in the oil and gas reclamation fund.

E. When the financial assurance proves insufficient to cover the cost of plugging oil and gas wells on land other than federal land and funds must be expended from the oil and gas reclamation fund to meet the additional expenses, the oil conservation division is authorized to bring suit against the operator in the district court of the county in which the well is located for indemnification for all costs incurred by the oil conservation division in plugging the well. All funds collected pursuant to a judgment in a suit for indemnification brought under the provisions of this section shall be deposited in the oil and gas reclamation fund.

F. An operator required to file financial assurance for a well pursuant to this section is considered to have met that requirement if the operator obtains a plugging insurance policy that includes the specific well and that:

(1) is approved by the office of superintendent of insurance;

(2) names the state of New Mexico as owner of the policy and contingent beneficiary;

(3) names a primary beneficiary who agrees to plug the specified wellbore;

(4) is fully prepaid and cannot be canceled or surrendered;

(5) provides that the policy continues in effect until the specified wellbore has been plugged;

(6) provides that benefits will be paid when, but not before, the specified wellbore has been plugged in accordance with rules of the oil conservation division in effect at the time of plugging; and

(7) provides benefits that are not less than an amount equal to the one-well financial assurance required by oil conservation division rules.

G. If, subsequent to an operator obtaining an insurance policy as provided in this section, the one-well financial assurance requirement applicable to the operator's well is increased, either because the well is deepened or the rules of the oil conservation division are amended, the operator is considered to have met the revised requirement if:

(1) the existing policy benefit equals or exceeds the revised requirement;

(2) the operator obtains an amendment increasing the policy benefit by the amount of the increase in the applicable financial assurance requirement; or

(3) the operator obtains financial assurance equal to the amount, if any, by which the revised requirement exceeds the policy benefit."

Chapter 99 Section 2 Laws 2015

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

SCONC/Senate Bill 442, aa, w/ec

Approved April 8, 2015

LAWS 2015, CHAPTER 100

AN ACT

RELATING TO TAXATION; CHANGING PROCEDURES FOR ADJUSTING CERTAIN DISTRIBUTIONS AND TRANSFERS TO MUNICIPALITIES AND COUNTIES; ALLOWING THE TAXATION AND REVENUE DEPARTMENT TO, IN CERTAIN CIRCUMSTANCES, REVEAL TO LOCAL GOVERNMENTS A RANGE OF GROSS

RECEIPTS TAXES PAID BY TAXPAYERS FROM BUSINESS LOCATIONS
ATTRIBUTABLE TO THOSE LOCAL GOVERNMENTS.

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

Chapter 100 Section 1 Laws 2015

SECTION 1. Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended) is amended to read:

"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO MUNICIPALITIES OR COUNTIES.--

A. The provisions of this section apply to:

(1) any distribution to a municipality pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

(2) any transfer to a municipality with respect to any local option gross receipts tax imposed by that municipality;

(3) any transfer to a county with respect to any local option gross receipts tax imposed by that county;

(4) any distribution to a county pursuant to Section 7-1-6.16 or 7-1-6.47 NMSA 1978;

(5) any distribution to a municipality or a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

(6) any transfer to a county with respect to any tax imposed in accordance with the Local Liquor Excise Tax Act;

(7) any distribution to a county from the county government road fund pursuant to Section 7-1-6.26 NMSA 1978;

(8) any distribution to a municipality of gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

(9) any distribution to a municipality of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.

B. Before making a distribution or transfer specified in Subsection A of this section to a municipality or county for the month, amounts comprising the net receipts shall be segregated into two mutually exclusive categories. One category shall be for amounts relating to the current month, and the other category shall be for amounts

relating to prior periods. The total of each category for a municipality or county shall be reported each month to that municipality or county. If the total of the amounts relating to prior periods is less than zero and its absolute value exceeds the greater of one hundred dollars (\$100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, then the following procedures shall be carried out:

(1) all negative amounts relating to any period prior to the three calendar years preceding the year of the current month, net of any positive amounts in that same time period for the same taxpayers to which the negative amounts pertain, shall be excluded from the total relating to prior periods. Except as provided in Paragraph (2) of this subsection, the net receipts to be distributed or transferred to the municipality or county shall be adjusted to equal the amount for the current month plus the revised total for prior periods; and

(2) if the revised total for prior periods determined pursuant to Paragraph (1) of this subsection is negative and its absolute value exceeds the greater of one hundred dollars (\$100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, the revised total for prior periods shall be excluded from the distribution or transfers and the net receipts to be distributed or transferred to the municipality or county shall be equal to the amount for the current month.

C. The department shall recover from a municipality or county the amount excluded by Paragraph (2) of Subsection B of this section. This amount may be referred to as the "recoverable amount".

D. Prior to or concurrently with the distribution or transfer to the municipality or county of the adjusted net receipts, the department shall notify the municipality or county whose distribution or transfer has been adjusted pursuant to Paragraph (2) of Subsection B of this section:

(1) that the department has made such an adjustment, that the department has determined that a specified amount is recoverable from the municipality or county and that the department intends to recover that amount from future distributions or transfers to the municipality or county;

(2) that the municipality or county has ninety days from the date notice is made to enter into a mutually agreeable repayment agreement with the department;

(3) that if the municipality or county takes no action within the ninety-day period, the department will recover the amount from the next six distributions or transfers following the expiration of the ninety days; and

(4) that the municipality or county may inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application for a claim for refund that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application.

E. No earlier than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall begin recovering the recoverable amount from a municipality or county as follows:

(1) the department may collect the recoverable amount by:

(a) decreasing distributions or transfers to the municipality or county in accordance with a repayment agreement entered into with the municipality or county; or

(b) except as provided in Paragraphs (2) and (3) of this subsection, if the municipality or county fails to act within the ninety days, decreasing the amount of the next six distributions or transfers to the municipality or county following expiration of the ninety-day period in increments as nearly equal as practicable and sufficient to recover the amount;

(2) if, pursuant to Subsection B of this section, the secretary determines that the recoverable amount is more than fifty percent of the average distribution or transfer of net receipts for that municipality or county, the secretary:

(a) shall recover only up to fifty percent of the average distribution or transfer of net receipts for that municipality or county; and

(b) may, in the secretary's discretion, waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance; and

(3) if, after application of a refund claim, audit adjustment, correction of a mistake by the department or other adjustment of a prior period, but prior to any recovery of the department pursuant to this section, the total net receipts of a municipality or county for the twelve-month period beginning with the current month are reduced or are projected to be reduced to less than fifty percent of the average distribution or transfer of net receipts, the secretary may waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance.

F. No later than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall provide the municipality or county adequate opportunity to review an application for a claim for refund that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application, pursuant to Section 7-1-8.9 NMSA 1978.

G. On or before September 1 of each year beginning in 2016, the secretary shall report to the state board of finance and the legislative finance committee the total recoverable amount waived pursuant to Subparagraph (b) of Paragraph (2) and Paragraph (3) of Subsection E of this section for each municipality and county in the prior fiscal year.

H. The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next designated distribution or transfer, and succeeding distributions or transfers as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:

(1) prior to an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department takes precedence over any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, which may be made only from the net amount of the distribution or transfer remaining after application of the decrease or redirection pursuant to this subsection; and

(2) after an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department shall be subordinate to any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section.

I. Upon the direction of the secretary of finance and administration pursuant to Section 9-6-5.2 NMSA 1978, the secretary shall temporarily withhold the balance of a distribution to a municipality or county, net of any decrease or redirected amount pursuant to Subsection H of this section and any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, that has failed to submit an audit report required by the Audit Act or a financial report required by Subsection F of Section 6-6-2 NMSA 1978. The amount to be withheld, the source of the withheld distribution and the

number of months that the distribution is to be withheld shall be as directed by the secretary of finance and administration. A distribution withheld pursuant to this subsection shall remain in the tax administration suspense fund until distributed to the municipality or county and shall not be distributed to the general fund. An amount withheld pursuant to this subsection shall be distributed to the municipality or county upon direction of the secretary of finance and administration.

J. As used in this section:

(1) "amounts relating to the current month" means any amounts included in the net receipts of the current month that represent payment of tax due for the current month, correction of amounts processed in the current month that relate to the current month or that otherwise relate to obligations due for the current month;

(2) "amounts relating to prior periods" means any amounts processed during the current month that adjust amounts processed in a period or periods prior to the current month regardless of whether the adjustment is a correction of a department error or due to the filing of amended returns, payment of department-issued assessments, filing or approval of claims for refund, audit adjustments or other cause;

(3) "average distribution or transfer amount" means the following amounts; provided that a distribution or transfer that is negative shall not be used in calculating the amounts:

(a) the annual average of the total amount distributed or transferred to a municipality or county in each of the three twelve-month periods preceding the current month;

(b) if a distribution or transfer to a municipality or county has been made for less than three years, the total amount distributed or transferred in the year preceding the current month; or

(c) if a municipality or county has not received distributions or transfers of net receipts for twelve or more months, the monthly average of net receipts distributed or transferred to the municipality or county preceding the current month multiplied by twelve;

(4) "current month" means the month for which the distribution or transfer is being prepared; and

(5) "repayment agreement" means an agreement between the department and a municipality or county under which the municipality or county agrees to allow the department to recover an amount determined pursuant to Paragraph (2) of Subsection B of this section by decreasing distributions or transfers to the municipality

or county for one or more months beginning with the distribution or transfer to be made with respect to a designated month. No interest shall be charged."

Chapter 100 Section 2 Laws 2015

SECTION 2. Section 7-1-8.9 NMSA 1978 (being Laws 2009, Chapter 243, Section 11) is amended to read:

"7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL GOVERNMENTS AND THEIR AGENCIES.--

A. An employee of the department may reveal to:

(1) the officials or employees of a municipality of this state authorized in a written request by the municipality for a period specified in the request within the twelve months preceding the request; provided that the municipality receiving the information has entered into a written agreement with the department that the information shall be used for tax purposes only and specifying that the municipality is subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978:

(a) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts for that municipality under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality. The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the municipality may agree in writing;

(b) a range of taxable gross receipts of registered gross receipts paid by taxpayers from business locations attributable to that municipality under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality; provided that authorization from the federal internal revenue service to reveal such information has been received. The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the municipality may agree in writing; and

(c) information indicating whether persons shown on a list of businesses located within that municipality furnished by the municipality have reported gross receipts to the department but have not reported gross receipts for that municipality under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality;

(2) the officials or employees of a county of this state authorized in a written request by the county for a period specified in the request within the twelve months preceding the request; provided that the county receiving the information has entered into a written agreement with the department that the information shall be used

for tax purposes only and specifying that the county is subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978:

(a) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts either for that county in the case of a local option gross receipts tax imposed on a countywide basis or only for the areas of that county outside of any incorporated municipalities within that county in the case of a county local option gross receipts tax imposed only in areas of the county outside of any incorporated municipalities. The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the county may agree in writing;

(b) a range of taxable gross receipts of registered gross receipts paid by taxpayers from business locations attributable either to that county in the case of a local option gross receipts tax imposed on a countywide basis or only to the areas of that county outside of any incorporated municipalities within that county in the case of a county local option gross receipts tax imposed only in areas of the county outside of any incorporated municipalities; provided that authorization from the federal internal revenue service to reveal such information has been received. The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the county may agree in writing;

(c) in the case of a local option gross receipts tax imposed by a county on a countywide basis, information indicating whether persons shown on a list of businesses located within the county furnished by the county have reported gross receipts to the department but have not reported gross receipts for that county under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that county on a countywide basis; and

(d) in the case of a local option gross receipts tax imposed by a county only on persons engaging in business in that area of the county outside of incorporated municipalities, information indicating whether persons on a list of businesses located in that county outside of the incorporated municipalities but within that county furnished by the county have reported gross receipts to the department but have not reported gross receipts for that county outside of the incorporated municipalities within that county under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by the county only on persons engaging in business in that county outside of the incorporated municipalities; and

(3) officials or employees of a municipality or county of this state, authorized in a written request of the municipality or county, for purposes of inspection, the records of the department pertaining to an increase or decrease to a distribution or transfer made pursuant to Section 7-1-6.15 NMSA 1978 for the purpose of reviewing the basis for the increase or decrease; provided that the municipality or county receiving the information has entered into a written agreement with the department that the

information shall be used for tax purposes only and specifying that the municipality or county is subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978. The authorized officials or employees may only reveal the information provided in this paragraph to another authorized official or employee, to an employee of the department, or a district court, an appellate court or a federal court in a proceeding relating to a disputed distribution and in which both the state and the municipality or county are parties.

B. The department may require that a municipal or county official or employee satisfactorily complete appropriate training on protecting confidential information prior to receiving the information pursuant to Subsection A of this section."

Chapter 100 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SCORC/Senate Bill 669, aa

Approved April 8, 2015

LAWS 2015, CHAPTER 101

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 101 Section 1 Laws 2015

Section 1. **SHORT TITLE.**--This act may be cited as the "General Appropriation Act of 2015".

Chapter 101 Section 2 Laws 2015

Section 2. **DEFINITIONS.**--As used in the General Appropriation Act of 2015:

A. "agency" means an office, department, agency, institution, board, bureau, commission, court, district attorney, council or committee of state government;

B. "efficiency" means the measure of the degree to which services are efficient and productive and is often expressed in terms of dollars or time per unit of output;

C. "explanatory" means information that can help users to understand reported performance measures and to evaluate the significance of underlying factors that may have affected the reported information;

D. "federal funds" means any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Leasing Act;

E. "full-time equivalent" or "FTE" means one or more authorized positions that alone or together receives or receive compensation for not more than two thousand ninety-six hours worked in fiscal year 2016. 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 2015;

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 2015;

(2) all revenue available to agencies from sources other than the general fund, internal service funds, interagency transfers and federal funds; and

(3) all revenue, the use of which is restricted by statute or agreement;

J. "outcome" means the measure of the actual impact or public benefit of a program;

K. "output" means the measure of the volume of work completed or the level of actual services or products delivered by a program;

L. "performance measure" means a quantitative or qualitative indicator used to assess a program;

M. "quality" means the measure of the quality of a good or service produced and is often an indicator of the timeliness, reliability or safety of services or products produced by a program;

N. "revenue" means all money received by an agency from sources external to that

agency, net of refunds and other correcting transactions, other than from issue of debt, liquidation of investments or as agent or trustee for other governmental entities or private persons; and

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

Chapter 101 Section 3 Laws 2015

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 2015, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 2016 for the objects expressed.

D. Unexpended balances in agency accounts remaining at the end of fiscal year 2015 shall revert to the general fund by October 1, 2015 unless otherwise indicated in the General Appropriation Act of 2015 or otherwise provided by law.

E. Unexpended balances in agency accounts remaining at the end of fiscal year 2016 shall revert to the general fund by October 1, 2016 unless otherwise indicated in the General Appropriation Act of 2015 or otherwise provided by law.

F. The state budget division shall monitor revenue received by agencies from sources other than the general fund and shall reduce the operating budget of any agency whose revenue from such sources is not meeting projections. The state budget division shall notify the legislative finance committee of any operating budget reduced pursuant to this subsection.

G. Except as otherwise specifically stated in the General Appropriation Act of 2015, appropriations are made in that act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 2016. If any other act of the first session of the fifty-second 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 2015 shall be transferred from the agency, fund or distribution to which an appropriation has been made as required by existing law to the appropriate agency, fund or distribution provided by the new law.

~~[H. The department of finance and administration will regularly consult with the legislative finance committee staff to compare fiscal year 2016 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.]~~ *LINE-ITEM VETO*

I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, agencies whose revenue from state board of finance loans, from revenue appropriated by other acts of the legislature, or from gifts, grants, donations, bequests, insurance settlements, refunds or payments into revolving funds exceeds specifically appropriated amounts may request budget increases from the state budget division. If approved by the state budget division, such money is appropriated.

J. Except for gasoline credit cards used solely for operation of official vehicles, telephone credit cards used solely for official business and procurement cards used as authorized by Section 6-5-9.1 NMSA 1978, none of the appropriations contained in the General Appropriation Act of 2015 may be expended for payment of agency-issued credit card invoices.

K. To prevent unnecessary spending, expenditures from the General Appropriation Act of 2015 for gasoline for state-owned vehicles at public gasoline service stations shall be made only for self-service gasoline provided that a state agency head may provide exceptions from the requirement to accommodate disabled persons or for other reasons the public interest may require.

L. For the purpose of administering the General Appropriation Act of 2015, 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 101 Section 4 Laws 2015

Section 4. FISCAL YEAR 2016 APPROPRIATIONS.--

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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A. LEGISLATIVE

LEGISLATIVE COUNCIL SERVICE:

(1) Legislative building services:

Appropriations:

(a) Personal services and employee benefits	2,893.1			2,893.1
(b) Contractual services		97.6		97.6
(c) Other	1,351.8			1,351.8

(2) Energy council dues:

Appropriations:	38.4			38.4
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Subtotal			4,380.9	
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TOTAL LEGISLATIVE	4,380.9			4,380.9
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B. JUDICIAL

SUPREME COURT LAW LIBRARY:

The purpose of the supreme court law library is to provide and produce legal information for the judicial, legislative and executive branches of state government, the legal community and the public at large so they may have equal access to the law, effectively address the courts, make laws and write regulations, better understand the legal system and conduct their affairs in accordance with the principles of law.

Appropriations:

(a)	Personal services and employee benefits	655.0		655.0
(b)	Contractual services	395.6		395.6
(c)	Other	518.9	2.2	521.1

Performance measures:

(a) Output:	Number of research requests	8,500
Subtotal		1,571.7

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)	Personal services and employee benefits	519.4		519.4
(b)	Contractual services	777.0	400.0	1,177.0
(c)	Other	140.0		140.0
Subtotal				1,836.4

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)	Personal services and employee benefits	709.6		709.6
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(b)	Contractual services	28.2	28.2
(c)	Other	120.5 2.0	122.5

Any unexpended balances in the judicial standards commission remaining at the end of fiscal year 2016 from investigation and trial cost reimbursements from respondents shall not revert.

Subtotal	860.3
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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 independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and employee benefits	5,441.8	5,441.8
(b)	Contractual services	33.9	33.9
(c)	Other	468.1 1.0	469.1

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	100%
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Subtotal	5,944.8
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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)	Personal services and employee benefits	3,179.2	3,179.2
(b)	Contractual services	7.3	7.3
(c)	Other	171.1	171.1

Notwithstanding the provisions of Sections 35-8-7 and 38-5-15 NMSA 1978 or other substantive law, the supreme court has the authority to reduce juror pay as needed to stay within the appropriation for the jury and witness fund.

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 98%

Subtotal 3,357.6

ADMINISTRATIVE OFFICE OF THE COURTS:

(1) Administrative support:

The purpose of the administrative support program is to provide administrative support to the chief justice, all judicial branch units and the administrative office of the courts so that they can effectively administer the New Mexico court system.

Appropriations:

(a)	Personal services and					
	employee benefits	3,788.9	61.3	172.5	4,022.7	
(b)	Contractual services	725.6	231.5	652.0	1,609.1	
(c)	Other	4,262.0	2,275.0	18.5	52.0	6,607.5

Performance measures:

(a) Output: Average cost per juror \$50

(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	2,647.1	2,495.6	5,142.7
(b)	Contractual services		1,263.0	1,263.0
(c)	Other	842.2	1,991.4	2,833.6

Performance measures:

(a) Quality: Percent of accurate driving-while-intoxicated court reports 98%

(3) Magistrate court:

The purpose of the magistrate 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) Personal services and employee benefits	18,227.3	2,856.0	21,083.3	
(b) Contractual services	334.0	207.8	50.0	591.8
(c) Other	8,469.3	1,083.4	9,552.7	

Performance measures:

(a) Outcome: Bench warrant revenue collected annually, in millions \$3.3

(b) Explanatory: Cases disposed as a percent of cases filed 100%

(4) Special court services:

The purpose of the special court services program is to provide court advocates, legal counsel and safe exchanges for children and families; to provide judges pro tem; and to adjudicate water rights disputes so the constitutional rights and safety of citizens, especially children and families, are protected.

Appropriations:

(a) Court-appointed special advocate	1,424.6	1,424.6	
(b) Supervised visitation	898.7	898.7	
(c) Water rights	75.0	611.4	686.4
(d) Court-appointed attorneys	5,401.1	5,401.1	
(e) Children's mediation	231.9	231.9	
(f) Judges pro temp	30.9	30.9	

(g)	Access to justice	127.2		127.2
(h)	Drug court	1,577.7	1,078.6	2,656.3

Notwithstanding the provisions of Section 11-6A-3 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriation to the special court services program of the administrative office of the courts includes one million dollars (\$1,000,000) from the local DWI grant fund for drug courts. Any unexpended balances from appropriations made from the local DWI grant fund remaining at the end of fiscal year 2016 shall revert to the local DWI grant fund.

Subtotal			64,163.5	
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SUPREME COURT BUILDING COMMISSION:

The purpose of the supreme court building commission is to retain custody and control of the supreme court building and its grounds, to provide care, preservation, repair, cleaning, heating and lighting and to hire necessary employees for these purposes.

Appropriations:

(a)	Personal services and employee benefits	743.8		743.8
(b)	Contractual services	7.3		7.3
(c)	Other	229.5	229.5	
	Subtotal		980.6	

DISTRICT COURTS:

(1) First judicial district:

The purpose of the first judicial district court program, statutorily created in Santa Fe, Rio Arriba and Los Alamos counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and employee benefits	6,822.1	578.4		7,400.5
(b)	Contractual services	47.9	40.0	353.5	441.4
(c)	Other	256.4	172.4	5.3	434.1

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(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)	Personal services and				
	employee benefits	21,769.9	3,919.2	143.0	25,832.1
(b)	Contractual services	435.6	74.0	509.6	
(c)	Other	1,277.4	360.3	1,637.7	

~~[The general fund appropriation to the second judicial district court in the contractual services category includes seventy-five thousand dollars (\$75,000) for a judge pro tem.] LINE-ITEM VETO~~

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(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)	Personal services and				
	employee benefits	5,865.5	580.9	178.2	6,624.6
(b)	Contractual services	577.8	141.0	143.4	862.2
(c)	Other	263.0	36.0	13.7	312.7

~~[The general fund appropriation to the third judicial district court in the contractual services category includes seventy-five thousand dollars (\$75,000) for a judge pro tem.] LINE-ITEM VETO~~

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(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)	Personal services and				
	employee benefits	2,198.7			2,198.7
(b)	Contractual services	35.0	7.0	169.3	211.3
(c)	Other	138.9	20.0	158.9	

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 97%

(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)	Personal services and				
	employee benefits	6,213.1		77.9	6,291.0
(b)	Contractual services	300.6	65.0	415.1	780.7
(c)	Other	206.0	65.0	10.1	281.1

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(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)	Personal services and				
	employee benefits	2,613.9		39.0	2,652.9
(b)	Contractual services	578.4	12.0	142.8	733.2
(c)	Other	140.7	20.0	160.7	

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(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)	Personal services and				
	employee benefits	2,030.5		281.3	2,311.8
(b)	Contractual services	262.9	4.5	119.6	387.0
(c)	Other	115.2	52.9	5.0	173.1

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(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) Personal services and

	employee benefits	2,341.6			2,341.6
(b)	Contractual services	619.0	55.0	181.7	855.7
(c)	Other	98.6	26.0	124.6	

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(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)	Personal services and				
	employee benefits	3,316.4	514.0	18.5	3,848.9
(b)	Contractual services	23.5	7.5	106.7	137.7
(c)	Other	131.8	94.4	226.2	

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(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)	Personal services and				
	employee benefits	777.5			777.5
(b)	Contractual services	53.2	40.3		93.5
(c)	Other	103.3		103.3	

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(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)	Personal services and				
	employee benefits	5,911.0	335.5	58.0	6,304.5
(b)	Contractual services	404.3	100.1	258.5	762.9
(c)	Other	237.3	53.8	36.5	327.6

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 96%

(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)	Personal services and				
	employee benefits	3,106.1	55.9	10.0	3,172.0
(b)	Contractual services	136.7	15.0	120.9	272.6
(c)	Other	224.8	51.0		275.8

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 90%

(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)	Personal services and					
	employee benefits	6,176.4	354.8			6,531.2
(b)	Contractual services	488.1	251.9	411.3	102.0	1,253.3
(c)	Other	558.2	73.3	14.0		645.5

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	100%
Subtotal		88,449.7

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)	Personal services and					
	employee benefits	18,846.3	1,895.7	126.6	140.1	21,008.7
(b)	Contractual services	2,211.0		509.0	310.1	158.3
(c)	Other	2,838.3	277.1	28.8		3,144.2
(d)	Other financing uses			15.0		15.0

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	95%
Subtotal		27,356.3

DISTRICT ATTORNEYS:

(1) First judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Santa Fe, Rio Arriba and Los Alamos counties.

Appropriations:

(a)	Personal services and				
	employee benefits	4,867.1	43.4	120.1	5,030.6
(b)	Contractual services	24.0			24.0
(c)	Other	436.8	436.8		

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition,	
	in months	6

(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	17,622.4	414.1	86.8	201.9	18,325.2
(b)	Contractual services	124.0				124.0
(c)	Other	827.5	160.0	987.5		

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition,	
	in months	9

(3) Third judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Dona Ana county.

Appropriations:

(a)	Personal services and					
	employee benefits	4,510.1	237.4	108.8	417.6	5,273.9
(b)	Contractual services	19.4				19.4
(c)	Other	258.6	258.6			

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition,	
	in months	6

(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	2,993.1				2,993.1
(b)	Contractual services	29.9				29.9
(c)	Other	156.7	156.7			

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition,	
	in months	6

(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	4,758.7		4,758.7
(b)	Contractual services	16.5		16.5
(c)	Other	172.9	172.9	

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition, in months	6
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(6) Sixth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Grant, Hidalgo and Luna counties.

Appropriations:

(a)	Personal services and employee benefits	2,603.0	33.9	127.4	2,764.3
(b)	Contractual services	19.4			19.4
(c)	Other	223.7	223.7		

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition, in months	5
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(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
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	employee benefits	2,367.1	2,367.1
(b)	Contractual services	13.5	13.5
(c)	Other	147.7	147.7

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition,		
	in months	5.5	

(8) Eighth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Taos, Colfax and Union counties.

Appropriations:

(a)	Personal services and		
	employee benefits	2,521.3	2,521.3
(b)	Contractual services	19.1	19.1
(c)	Other	159.5	159.5

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition,		
	in months	7	

(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	2,718.3	2,718.3
(b)	Contractual services	17.0	17.0

(c) Other 169.8 169.8

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,
in months 6

(10) Tenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Quay, Harding and De Baca counties.

Appropriations:

(a) Personal services and
employee benefits 1,142.0 1,142.0
(b) Contractual services 11.0 11.0
(c) Other 108.5 108.5

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,
in months 5

(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 3,358.4 440.9 106.6 105.4 4,011.3
(b) Contractual services 76.1 76.1
(c) Other 207.7 5.0 1.1 213.8

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,
in months <6

(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	2,105.0	167.4	2,272.4
(b)	Contractual services	15.3		15.3
(c)	Other	111.5	111.5	

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,
in months 5

(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	2,651.9	53.4 239.3	2,944.6
(b)	Contractual services	29.0		29.0
(c)	Other	163.6 0.7	164.3	

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,
in months 6

(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	4,609.4	137.7	66.0	4,813.1
(b)	Contractual services	70.5			70.5
(c)	Other	425.7	10.0	435.7	

Performance measures:

(a) Efficiency:	Average time from filing of petition to final disposition,	
	in months	6

Subtotal 66,167.6

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 safehouse network so that they may obtain and access the necessary resources to effectively and efficiently carry out their prosecutorial, investigative and programmatic functions.

Appropriations:

(a)	Personal services and				
	employee benefits	1,336.7	104.3		1,441.0
(b)	Contractual services	211.2	25.0		236.2
(c)	Other	696.4	170.7	867.1	
	Subtotal		2,544.3		

TOTAL JUDICIAL 227,578.2 26,637.5 6,484.6 2,532.5 263,232.8

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	8,500.0	6,065.3	14,565.3
(b)	Contractual services	100.0	674.8	774.8
(c)	Other	721.0	1,545.9	2,266.9
(d)	Other financing uses		8,286.0	8,286.0

The general fund appropriation to the legal services program of the attorney general in the other category includes sufficient funding for a nonprofit entity to provide a statewide mock trial program for high school students.

The other state funds appropriations to the legal services program of the attorney general include eight million two hundred eighty-six thousand dollars (\$8,286,000) from the consumer settlement fund of the office of the attorney general.

Performance measures:

- (a) Outcome: Percent of inquiries resolved within sixty days of
complaint or referral receipt 40%

(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	464.9	1,394.5	1,859.4
(b)	Contractual services	2.3	6.8	9.1

(c)	Other	95.8	287.4	383.2
(d)	Other financing uses		3.0	3.0

Performance measures:

(a) Explanatory: Total medicaid fraud recoveries identified, in thousands
\$5,000

Subtotal 28,147.7

STATE AUDITOR:

The purpose of the state auditor program is to audit the financial affairs of every agency annually so they can improve accountability and performance and to assure New Mexico citizens that funds are expended properly.

Appropriations:

(a)	Personal services and employee benefits	2,345.1	732.4	3,077.5
(b)	Contractual services	237.2		237.2
(c)	Other	388.0	97.6	485.6

The general fund appropriations to the state auditor include sufficient funds to provide technical assistance and conduct audits for municipalities and local public bodies on the at-risk list.

Performance measures:

(a) Explanatory: Percent of audits completed by regulatory due date 80%

Subtotal 3,800.3

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	17,045.7	6,748.7	1,298.3
	25,092.7		

(b) Contractual services	151.8	48.3	13.0	213.1
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(c) Other	5,449.5	506.9	195.6	6,152.0
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Performance measures:

(a) Output: Percent of electronically filed returns for personal income

tax and combined reporting system 92%

(b) Outcome: Collections as a percent of collectible outstanding

balances from the end of the prior fiscal year 18%

(c) Outcome: Collections as a percent of collectible audit assessments

generated in the current fiscal year plus assessments

generated in the last quarter of the prior fiscal year 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	7,037.0	9,079.0	16,116.0
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(b) Contractual services	1,927.9	2,814.8	
	4,742.7		

(c) Other	3,709.9	2,191.4	5,901.3
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(d) Other financing uses		1,265.9	1,265.9
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The other state funds appropriation to the motor vehicle program of the taxation and revenue department in the other financing uses category includes one million two hundred sixty-five thousand nine hundred dollars (\$1,265,900) 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 <5
- (c) Efficiency: Average wait time in qmatic-equipped offices, in minutes 19
- (d) Quality: Percent of customers rating customer service as good or higher 85%

(3) Property tax:

The purpose of the property tax program is to administer the Property Tax Code, to ensure the fair appraisal of property and to assess property taxes within the state.

Appropriations:

(a)	Personal services and		
	employee benefits	2,422.9	2,422.9
(b)	Contractual services	378.2	378.2
(c)	Other	657.7	657.7

Performance measures:

- (a) Outcome: Percent of counties in compliance with sales ratio standard of eighty-five percent assessed value to market value 95%

(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	1,211.3	263.9
			1,475.2
(b)	Contractual services	24.7	24.7

(c) Other 269.4 269.4

Performance measures:

(a) Outcome: Number of tax investigations referred to prosecutors as a percent of total investigations assigned during the year 50%

(5) Program support:

The purpose of program support is to provide information system resources, human resource services, finance and accounting services, revenue forecasting and legal services to give agency personnel the resources needed to meet departmental objectives. For the general public, the program conducts hearings for resolving taxpayer protests and provides stakeholders with reliable information regarding the state's tax programs.

Appropriations:

(a) Personal services and					
employee benefits	14,337.9	930.5	395.4		15,663.8
(b) Contractual services	3,715.4	81.2	41.1		3,837.7
(c) Other	3,508.8	0.4	215.1	3,724.3	

Notwithstanding the provisions of the Tax Administration Act or other substantive law, the department shall withhold an administrative fee in the amount of three and twenty-five hundredths percent of the distributions specified in Section 7-1-6.46, 7-1-6.47, and Subsection E of Section 7-1-6.41 NMSA 1978.

Notwithstanding the provisions of the Tax Administration Act or other substantive law, of the amounts withheld, an amount equal to three percent of the distributions specified in Subsection E of Section 7-1-6.41 NMSA 1978 shall be deposited into the general fund and the remainder of the amounts withheld shall be retained by the department and is included in the other state funds appropriations to the department.

Subtotal 87,937.6

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	4,641.4	4,641.4
(b)	Contractual services	51,611.0	51,611.0
(c)	Other	862.8	862.8

Performance measures:

(a) Outcome: Five-year annualized investment returns to exceed internal benchmarks, in basis points >25

(b) Outcome: Five-year annualized percentile performance ranking in endowment investment peer universe <49

Subtotal 57,115.2

DEPARTMENT OF FINANCE AND ADMINISTRATION:

(1) Policy development, fiscal analysis, budget oversight and education accountability:

The purpose of the policy development, fiscal analysis, budget oversight and education accountability program is to provide professional and coordinated policy development and analysis and oversight to the governor, the legislature and state agencies so they can advance the state's policies and initiatives using appropriate and accurate data to make informed decisions for the prudent use of the public's tax dollars.

Appropriations:

(a)	Personal services and		
	employee benefits	3,056.6	3,056.6
(b)	Contractual services	108.3	108.3
(c)	Other	166.3	166.3

Performance measures:

(a) Outcome: General fund reserves as a percent of recurring appropriations 10%

(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	1,789.8	1,075.8	353.6	3,219.2
(b)	Contractual services	2,503.6	1,662.3		2.0
		4,167.9			
(c)	Other	93.9	35,857.0	8,660.8	44,611.7
(d)	Other financing uses		1,300.0		1,300.0

Notwithstanding the provisions of Section 11-6A-3 NMSA 1978 or other substantive law, the other state funds appropriation to the community development, local government assistance and fiscal oversight program of the department of finance and administration in the other financing uses category includes one million dollars (\$1,000,000) from the local DWI grant fund, including local DWI grant program distributions, to be transferred to the administrative office of the courts for drug courts.

The other state funds appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include seventeen million two hundred thirty-five thousand two hundred dollars (\$17,235,200) from the 911 enhancement fund, twenty-one million dollars (\$21,000,000) from the local DWI grant fund and one million six hundred fifty-nine thousand nine hundred dollars (\$1,659,900) 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 an additional three hundred thousand dollars (\$300,000) for the civil legal services fund.

Performance measures:

- (a) Output: Percent of county and municipality budgets approved by the local government division (of budgets submitted timely) 90%
- (b) Outcome: Number of counties and municipalities operating under a conditional certification during the fiscal year 5

(3) Fiscal management and oversight:

The purpose of the fiscal management and oversight program is to provide for and promote financial accountability for public funds throughout state government by providing state agencies and the citizens of New Mexico with timely, accurate and comprehensive information on the financial status and expenditures of the state and to review and approve all state professional service contracts.

Appropriations:

(a)	Personal services and employee benefits	5,340.1	5,340.1
(b)	Contractual services	931.8	931.8
(c)	Other	535.2	535.2
(d)	Other financing uses	29,608.0	19,282.7
		48,890.7	

Performance measures:

(a) Efficiency: Percent of vendor and employee payment vouchers processed

within five working days 95%

(b) Output: Percent of bank accounts reconciled 100%

(4) Program support:

The purpose of program support is to provide other department of finance and administration programs with central direction to agency management processes to ensure consistency, legal compliance and financial integrity, to provide human resources support and to administer the executive's exempt salary plan.

Appropriations:

(a)	Personal services and employee benefits	1,025.8	1,025.8
(b)	Contractual services	75.2	75.2
(c)	Other	65.2	65.2

(5) Dues and membership fees/special appropriations:

Appropriations:

(a)	Council of state governments	107.6	107.6
(b)	Western interstate commission for higher education	141.0	141.0

(c)	Education commission of the states	60.5	60.5	
(d)	National association of state budget officers	18.5		18.5
(e)	National conference of state legislatures	143.3	143.3	
(f)	Western governors' association	36.0	36.0	
(g)	National center for state courts	112.3	112.3	
(h)	National conference of insurance legislators	10.0		10.0
(i)	National council of legislators from gaming states	3.0		3.0
(j)	National governors' association	87.8	87.8	
(k)	Citizen substitute care review	404.6	239.9	644.5
(l)	Emergency water supply fund	118.1		118.1
(m)	Fiscal agent contract	1,317.2		1,317.2
(n)	State planning districts	668.4		668.4
(o)	Statewide teen court	19.9	160.0	179.9
(p)	Law enforcement protection			

	fund	8,700.0	8,700.0	
(q)	Leasehold community			
	assistance	128.5	128.5	
(r)	County detention of			
	prisoners	2,690.9	2,690.9	
(s)	Acequia and community ditch			
	education program	448.8	448.8	
(t)	New Mexico acequia			
	commission	49.3	49.3	
(u)	Food banks	548.0	548.0	
(v)	Regional housing authority			
	oversight	199.5	199.5	
(w)	Behavioral health for			
	prisoners [in southwest			
	New Mexico]			
	LINE-ITEM VETO	100.0		100.0
(x)	Land grant council	174.7	174.7	
(y)	One-on-one youth mentoring	2,403.3	2,403.3	
(z)	Domestic violence prevention			
	shelter	79.8	79.8	
	[(aa) Narcotics taskforce in			
	McKinley county	100.0	100.0]	
	LINE-ITEM VETO			
(bb)	County food infrastructure	99.7	99.7	

(cc)	Children's interactive science museum in Bernalillo county	99.7	99.7
(dd)	Group youth mentoring	700.1	700.1
(ee)	Bernalillo county active shooter training	50.0	50.0

On certification by the state board of finance pursuant to Section 6-1-2 NMSA 1978 that a critical emergency exists that cannot be addressed by disaster declaration or other emergency or contingency funds, the secretary of the department of finance and administration is authorized to transfer from the general fund operating reserve to the state board of finance emergency fund the amount necessary to meet the emergency. Such transfers shall not exceed an aggregate amount of two million dollars (\$2,000,000) in fiscal year 2016. 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 department of finance and administration shall not distribute a general fund appropriation in Subparagraphs (k) through (ee) to a New Mexico agency or local public body that is not current on its audit or financial reporting or otherwise in compliance with the Audit Act.

The general fund appropriation to the dues and membership fees/special appropriations program of the department of finance and administration includes one hundred thousand dollars (\$100,000) to provide behavioral health services [in Luna, Hidalgo and Grant counties] for individuals in, or released from, county detention center custody. *LINE-ITEM VETO*

Subtotal	133,714.4
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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	310,218.7	310,218.7
(b)	Other financing uses	681.3	681.3

Performance measures:

(a)	Outcome: Percent change in per-member health claim costs	6%
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(b) Outcome: Percent change in medical premium as compared with industry average 3%

(2) Risk:

The purpose of the risk program is to provide economical and comprehensive property, liability and workers' compensation programs to educational entities so they are protected against injury and loss.

Appropriations:

(a)	Contractual services	73,149.3	73,149.3
(b)	Other financing uses	681.3	681.3

Performance measures:

(a) Outcome: Percent of schools in compliance with loss control prevention recommendations 65%

(b) Outcome: Percent change in the average cost per improper touching claim as compared with five-year average 3%

(c) Outcome: Percent change in the average cost per roof damage claim as compared with five-year average 4%

(d) Outcome: Percent change in the average cost per workers' compensation claim as compared with other self-insured employers in the workers' compensation administration's annual report 4%

(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	961.3	961.3
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(b)	Contractual services		166.0	166.0
(c)	Other	235.3	235.3	

Any unexpended balances in program support of the public school insurance authority remaining at the end of fiscal year 2016 from this appropriation shall revert to the benefits program and risk program.

Subtotal			386,093.2	
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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		293,571.1	293,571.1
(b)	Other	40.0	40.0	
(c)	Other financing uses		3,017.2	3,017.2

Performance measures:

- (a) Output: Minimum number of years of positive fund balance 20
- (b) Efficiency: Total revenue increase to the reserve fund, in millions \$25
- (c) Efficiency: Percent variance of medical premium change with industry average +/-4%

(2) Program support:

The purpose of program support is to provide administrative support for the healthcare benefits administration program to assist the agency in delivering its services to its constituents.

Appropriations:

(a)	Personal services and employee benefits		1,924.5	1,924.5
(b)	Contractual services		485.2	485.2

(c)	Other	607.5	607.5
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Any unexpended balances in program support of the retiree health care authority remaining at the end of fiscal year 2016 from this appropriation shall revert to the healthcare benefits administration program.

Performance measures:

(a) Efficiency:	Average number of days to resolve customer service claims related to inquiries and appeals	6
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Subtotal	299,645.5
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GENERAL SERVICES DEPARTMENT:

(1) Employee group health benefits:

The purpose of the employee group health benefits program is to effectively administer comprehensive health-benefit plans to state and local government employees.

Appropriations:

(a)	Contractual services	20,712.8	20,712.8
(b)	Other	300,000.0	300,000.0
(c)	Other financing uses	2,909.6	2,909.6

Performance measures:

(a) Efficiency:	Percent change in state employee medical premium compared
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with industry average	7%
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(b) Outcome:	Percent difference between the average per-member per-month cost compared with other government sector plans	5%
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(2) Risk management:

The purpose of the risk management program is to protect the state's assets against property, public liability, workers' compensation, state unemployment compensation, local public bodies unemployment compensation and surety bond losses so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and employee benefits		4,860.9	4,860.9
(b)	Contractual services		169.3	169.3
(c)	Other	571.0	571.0	
(d)	Other financing uses		3,377.2	3,377.2

Any unexpended balances in the risk management program of the general services department remaining at the end of fiscal year 2016 from this appropriation shall revert to the public liability fund, public property reserve 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.

Performance measures:

(a) Efficiency: Average time to resolve a claim, in days 30

(3) Risk management funds:

Appropriations:

(a)	Public liability		46,653.0	46,653.0
(b)	Surety bond	87.5	87.5	
(c)	Public property reserve		10,957.9	10,957.9
(d)	Local public body unemployment compensation reserve		2,040.0	2,040.0
(e)	Workers' compensation retention	22,924.5	22,924.5	
(f)	State unemployment compensation		14,550.0	14,550.0

Performance measures:

(a) Explanatory: Projected financial position of the public property fund 50%

(b) Explanatory: Projected financial position of the workers' compensation

fund 50%

(c) Explanatory: Projected financial position of the public liability fund 50%

(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	737.1	737.1
(b)	Contractual services	12.0	12.0
(c)	Other 685.0	685.0	
(d)	Other financing uses	51.3	51.3

Performance measures:

(a) Outcome: Sales growth in revenue compared with the previous similar
legislative fiscal year 8%

(5) Facilities management:

The purpose of the facilities management program is to provide employees and the public with effective property management so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and employee benefits	6,652.5	6,652.5
(b)	Contractual services	278.8 148.1 25.7	452.6
(c)	Other 5,383.9 233.9	5,617.8	
(d)	Other financing uses	224.7 224.7	449.4

The appropriations to the facilities management program of the general services department in the contractual services and other categories include transfers from the department of energy federal grant from the energy, minerals, and natural resources department for the whole building investment in sustainable energy projects ending fiscal year 2016.

The general fund appropriations to the facilities management program of the general services department include an additional seventy-five thousand dollars (\$75,000) for building maintenance [~~at the old Fort Bayard hospital~~]. *LINE-ITEM VETO*

Performance measures:

(a) Efficiency: Percent of capital projects on schedule and within approved
 budget 94%

(b) Outcome: Percent change in average cost per square foot for leased
 space 3%

(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	305.2	2,287.3	2,592.5
(b)	Contractual services	3.0	177.5	180.5
(c)	Other	268.4	8,160.2	8,428.6
(d)	Other financing uses	24.5	361.1	385.6

Performance measures:

(a) Explanatory: Percent increase in short-term vehicle use 5%

(b) Efficiency: Average vehicle operation costs per mile, as compared with
 industry average <\$0.59

(7) Procurement services:

The purpose of the procurement services program is to provide a procurement process for tangible property for government entities to ensure compliance with the Procurement Code so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and employee benefits	985.1	1,051.5	2,036.6
(b)	Contractual services		25.0	25.0
(c)	Other	79.0	128.2	207.2
(d)	Other financing uses		42.6	40.7
				83.3

Performance measures:

(a) Output: Percent increase in agency visits for compliance with procurement requirements 2%

(b) Outcome: Percent increase in vendors that comply with post award procurement guidelines 3%

(8) Program support:

The purpose of program support is to manage the program performance process to demonstrate success.

Appropriations:

(a)	Personal services and employee benefits		3,473.4	3,473.4
(b)	Contractual services		294.0	294.0
(c)	Other	526.6	526.6	
(d)	Other financing uses		52.8	52.8

Any unexpended balances in program support of the general services department remaining at the end of fiscal year 2016 from these appropriations shall revert to the procurement services, state printing services, risk management, risk management funds, employee group health benefits, facilities management and transportation services programs based on the proportion of each individual program's final assessment for program support.

Performance measures:

(a) Outcome: Percent of audit findings resolved from prior fiscal year,

excluding findings related to fund solvency 95%

Subtotal 462,757.5

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	6,210.9	6,210.9
(b) Contractual services	22,827.6	22,827.6
(c) Other 1,426.6	1,426.6	

Performance measures:

(a) Outcome: Average rate of return over a cumulative five-year period	7.75%
(b) Outcome: Funding period of unfunded actuarial accrued liability, in years 30	

Subtotal 30,465.1

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	572.9	30.0	602.9
(b) Other 5.3	5.3		

Subtotal 608.2

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	29,979.5		29,979.5
(b)	Contractual services	12,790.8	50.0	12,840.8
(c)	Other	5,431.1	200.0	5,631.1

The appropriations to the public defender department shall not be used to pay hourly reimbursement rates to contract attorneys.

Performance measures:

(a) Output:	Number of alternative sentencing treatment placements for felony, misdemeanor and juvenile clients	10,000
Subtotal		48,451.4

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	2,983.6		2,983.6
(b)	Contractual services	100.5		100.5
(c)	Other	515.0	515.0	
Subtotal				3,599.1

LIEUTENANT GOVERNOR:

(1) State ombudsman:

The purpose of the state ombudsman program is to facilitate and promote cooperation and understanding between the citizens of New Mexico and the agencies of state government, refer any complaints or special problems citizens may have to the proper entities, keep records of activities and submit an annual report to the governor.

Appropriations:

(a)	Personal services and employee benefits	499.7	499.7
(b)	Contractual services	44.7	44.7
(c)	Other	43.8	43.8
	Subtotal	588.2	

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	805.8	805.8
(b)	Other	45.7	45.7
(c)	Other financing uses	125.9	125.9

(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		
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	employee benefits	14,457.8	274.8	14,732.6
(b)	Contractual services	7,130.5	140.0	7,270.5
(c)	Other	22,464.6	132.1	22,596.7
(d)	Other financing uses	11,469.1	71.9	11,541.0

Performance measures:

(a) Output: Queue-time to reach a customer service representative at the help desk, in seconds <0:15

(b) Outcome: Percent of service desk incidents resolved within the timeframe specified for their priority level 90%

(3) Equipment replacement revolving funds:

Appropriations:

(a)	Contractual services		3,575.5	3,575.5
(b)	Other	4,835.8	4,835.8	

(4) Program support:

The purpose of program support is to provide management and ensure cost recovery and allocation services through leadership, policies, procedures and administrative support for the department.

Appropriations:

(a)	Personal services and			
	employee benefits		2,876.9	2,876.9
(b)	Contractual services		40.0	40.0
(c)	Other	256.6	256.6	

Performance measures:

(a) Outcome: Dollar amount of account receivables over sixty days old \$7,500,000

Subtotal 68,703.0

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:

(1) Pension administration:

The purpose of the pension administration program is to provide information, retirement benefits and an actuarially sound fund to association members so they can receive the defined benefit they are entitled to when they retire from public service.

Appropriations:

(a)	Personal services and			
	employee benefits	6,312.3		6,312.3
(b)	Contractual services		38,128.9	38,128.9
(c)	Other	1,257.7		1,257.7

Performance measures:

(a) Outcome: Funding period of unfunded actuarial accrued liability, in
years 30

(b) Outcome: Average rate of return on investments over a cumulative
five-year period 7.75%

Subtotal 45,698.9

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	2,507.5	57.7	2,565.2
(b)	Contractual services	45.6	7.3	52.9

(c) Other 245.0 153.4 398.4

Performance measures:

(a) Outcome: Percent of requests for access to public records in its custody the commission is able to satisfy within twenty-four hours 95%

Subtotal 3,016.5

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 4,169.7 4,169.7
(b) Contractual services 129.4 129.4
(c) Other 577.8 577.8

Performance measures:

(a) Output: Average number of days to issue charter documents 5

(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) Contractual services 953.4 953.4
(b) Other 1,409.8 1,250.0 2,659.8

Notwithstanding the provisions of Section 1-19A-10 NMSA 1978 or other substantive law, the other state funds appropriation to the elections program of the secretary of state includes one million two hundred

fifty thousand dollars (\$1,250,000) from the public election fund. Any unexpended balances in the elections program of the secretary of state at the end of fiscal year 2016 from appropriations made from the public election fund shall revert to the public election fund.

Performance measures:

(a) Outcome: Percent of eligible voters who are registered to vote 80%

(b) Efficiency: Percent of public requests responded to within the
three-day statutory deadline 95%

Subtotal 8,490.1

PERSONNEL BOARD:

(1) Human resource management:

The purpose of the human resource management program is to provide a flexible system of merit-based opportunity, appropriate compensation, human resource accountability and employee development that meets the evolving needs of the agencies, employees, applicants and the public so economy and efficiency in the management of state affairs may be provided while protecting the interest of the public.

Appropriations:

(a)	Personal services and			
	employee benefits	4,011.3	215.5	4,226.8
(b)	Contractual services	50.5		50.5
(c)	Other	286.5	20.3	306.8

Performance measures:

(a) Outcome: Average number of days to fill a position from the date of
posting 55

(b) Efficiency: Average state classified employee compa-ratio 95%

(c) Output: Percent of eligible employees with a completed performance
appraisal on record at the close of the fiscal year 95%

Subtotal 4,584.1

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 right to organize and bargain collectively with their employers or to refrain from such.

Appropriations:

(a)	Personal services and employee benefits	169.2		169.2
(b)	Contractual services	8.6		8.6
(c)	Other	53.3	53.3	
	Subtotal		231.1	

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	3,185.5		3,185.5
(b)	Contractual services	206.4		206.4
(c)	Other	393.2 122.3	4.0 519.5	

Performance measures:

(a)	Outcome: One-year annualized investment return on general fund core portfolio to exceed internal benchmarks, in basis points		5
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Subtotal		3,911.4	
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TOTAL GENERAL CONTROL	184,600.6	1,422,267.4	57,855.7	12,834.8
	1,677,558.5			

D. COMMERCE AND INDUSTRY

BOARD OF EXAMINERS FOR ARCHITECTS:

(1) Architectural registration:

The purpose of the architectural registration program is to provide architectural registration to approved applicants so they can practice architecture.

Appropriations:

(a)	Personal services and			
	employee benefits	259.8		259.8
(b)	Contractual services		13.1	13.1
(c)	Other	97.1	97.1	
	Subtotal		370.0	

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	230.9	73.5	304.4
(b)	Contractual services		82.5	82.5
(c)	Other	100.0	4.9	104.9

Performance measures:

(a) Outcome: Annual trade share of New Mexico ports within the west

	Texas and New Mexico region	21%
	Subtotal	491.8

TOURISM DEPARTMENT:

(1) Marketing and promotion:

The purpose of the marketing and promotion program is to produce and provide collateral, editorial and special events for the consumer and trade industry so they may increase their awareness of New Mexico as a premier tourist destination.

Appropriations:

(a)	Personal services and			
	employee benefits	1,768.1		1,768.1
(b)	Contractual services	350.1		350.1
(c)	Other	8,886.8	30.0	8,916.8

Performance measures:

- (a) Output: Percent of visitors who choose New Mexico as their primary destination 71%
- (b) Outcome: New Mexico's domestic overnight visitor market share 1.2%
- (c) Outcome: Percent increase in gross receipts tax revenue from accommodations revenue 2.5%

(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	218.1	104.6	322.7
(b)	Contractual services	3.1	227.3	230.4
(c)	Other	909.4	698.8	1,608.2

~~[The general fund appropriation to the tourism development program of the tourism department in the other category includes one hundred thousand dollars (\$100,000) for an Indian jewelry market in Gallup.]~~
 LINE-ITEM VETO

Performance measures:

(a) Output: Number of entities participating in collaborative applications for the cooperative advertising program 200

(b) Outcome: Combined advertising spending of communities and entities using the tourism department's current approved brand, in thousands \$1,600

(3) New Mexico magazine:

The purpose of the New Mexico magazine program is to produce a monthly magazine and ancillary products for a state and global audience so the audience can learn about New Mexico from a cultural, historical and educational perspective.

Appropriations:

(a) Personal services and employee benefits	992.7	992.7
(b) Contractual services	900.0	900.0
(c) Other	1,472.9	1,472.9

Performance measures:

(a) Output: Advertising revenue per issue, in thousands \$72

(b) Outcome: Annual circulation rate 95,000

(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	1,052.0	1,052.0
(b) Contractual services	44.1	44.1
(c) Other	455.0	455.0

Subtotal 18,113.0

ECONOMIC DEVELOPMENT DEPARTMENT:

(1) Economic development:

The purpose of the economic development program is to assist communities in preparing for their role in the new economy, focusing on high-quality job creation and improved infrastructure so New Mexicans can increase their wealth and improve their quality of life.

Appropriations:

(a) Personal services and employee benefits	1,789.5	1,789.5
(b) Contractual services	2,650.2	2,650.2
(c) Other	2,330.9	2,330.9

The general fund appropriation to the economic development program of the economic development department in the contractual services category includes one million one hundred eighty thousand dollars (\$1,180,000) for the New Mexico economic development corporation, nine hundred fifteen thousand dollars (\$915,000) for the mainstreet program, one hundred thirty thousand dollars (\$130,000) for certified business incubators, forty thousand dollars (\$40,000) for a grant writing assistance program for small businesses and seventy-five thousand dollars (\$75,000) to purchase and implement experiential, hands-on curricula for youth related to workforce readiness, entrepreneurship and financial literacy.

The general fund appropriation to the economic development program of the economic development department in the other category includes two million dollars (\$2,000,000) for the development training fund and one hundred thousand dollars (\$100,000) for the technology research collaborative established in Section 21-11-8.6 NMSA 1978.

Performance measures:

(a) Outcome: Number of workers trained by the job training incentive program	1,400
(b) Outcome: Total number of jobs created due to economic development department efforts	4,500
(c) Outcome: Number of rural jobs created	1,750
(d) Outcome: Number of jobs created through business relocations and competitive expansions facilitated by the economic	

development partnership 2,000

(e) Output: Number of private sector dollars leveraged by each dollar
appropriated through the Local Economic Development Act 5:1

(f) Output: Number of jobs created through the use of Local Economic
Development Act funds 1,500

(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	553.6	553.6
(b) Contractual services	99.0	99.0
(c) Other	107.1	107.1

Performance measures:

(a) Output: Number of film and media worker days 190,000

(b) Outcome: Direct spending by film industry productions, in millions \$200

(3) Program support:

The purpose of program support is to provide central direction to agency management processes and fiscal support to agency programs to ensure consistency, continuity and legal compliance.

Appropriations:

(a) Personal services and employee benefits	1,569.1	1,569.1
(b) Contractual services	202.3	202.3
(c) Other	200.6	200.6
Subtotal		9,502.3

REGULATION AND LICENSING DEPARTMENT:

(1) Construction industries and manufactured housing:

The purpose of the construction industries and manufactured housing program is to provide code compliance oversight; issue licenses, permits and citations; perform inspections; administer exams; process complaints; and enforce laws, rules and regulations relating to general construction and manufactured housing standards to industry professionals.

Appropriations:

(a)	Personal services and				
	employee benefits	6,845.6	129.8	17.5	6,992.9
(b)	Contractual services	234.1			234.1
(c)	Other	1,087.4	80.3	250.0	1,417.7
(d)	Other financing uses		15.6		15.6

Performance measures:

(a) Output: Percent of consumer complaints against licensed contractors and investigations involving unlicensed contracting resolved out of the total number of complaints filed 95%

(b) Efficiency: Percent of all construction inspections performed within three days of inspection request 95%

(2) Financial institutions:

The purpose of the financial institutions program is to issue charters and licenses; perform examinations; investigate complaints; and enforce laws, rules and regulations so that capital formation is maximized and a secure financial infrastructure is available to support economic development.

Appropriations:

(a)	Personal services and				
	employee benefits	1,404.8	752.0		2,156.8
(b)	Contractual services	9.0	15.0		24.0
(c)	Other	162.5	153.1	315.6	

(d) Other financing uses 71.5 71.5

Performance measures:

(a) Outcome: Percent of statutorily complete applications processed
within a standard number of days by type of application 95%

(b) Outcome: Percent of examination reports mailed to a depository
institution within thirty days of exit from the institution
or the exit conference meeting 95%

(3) Alcohol and gaming:

The purpose of the alcohol and gaming program is to regulate the sale, service and public consumption of alcoholic beverages and, in cooperation with the department of public safety, enforce the Liquor Control Act to protect the health, safety and welfare of the citizens of and visitors to New Mexico.

Appropriations:

(a) Personal services and
employee benefits 894.0 894.0

(b) Contractual services 18.9 92.0 110.9

(c) Other 70.7 8.0 78.7

Performance measures:

(a) Output: Number of days to resolve an administrative citation that
does not require a hearing 65

(b) Outcome: Number of days to issue a beer and wine liquor license 75

(4) Securities:

The purpose of the securities program is to promote investor protection and confidence so that capital formation is maximized and a secure financial infrastructure is available to support economic development.

Appropriations:

(a) Personal services and

	employee benefits	1,001.4	570.7	1,572.1
(b)	Contractual services	9.4	180.7	190.1
(c)	Other	148.6	204.5	353.1
(d)	Other financing uses		94.4	94.4

(5) Boards and commissions:

Appropriations:

(a)	Personal services and			
	employee benefits	2,321.1	3,210.6	5,531.7
(b)	Contractual services	20.0	363.1	383.1
(c)	Other	8.7	1,432.0	1,440.7
(d)	Other financing uses		4,667.9	25.0
				4,692.9

(6) Program support:

The purpose of program support is to provide leadership and centralized direction, financial management, information systems support and human resources support for all agency organizations in compliance with governing regulations, statutes and procedures so they can license qualified applicants, verify compliance with statutes and resolve or mediate consumer complaints.

Appropriations:

(a)	Personal services and			
	employee benefits	1,284.0	1,425.2	2,709.2
(b)	Contractual services	184.7	96.1	280.8
(c)	Other	104.2	512.8	617.0
	Subtotal		30,176.9	

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	6,015.4	719.5	6,734.9
(b)	Contractual services	63.9		63.9
(c)	Other	492.0	492.0	

Performance measures:

(a) Efficiency: Average number of days for a rate case to reach final order <270

(b) Outcome: Comparison of average commercial electric rates between major New Mexico utilities and selected utilities in regional western states +/-3%

(c) Explanatory: Percent of kilowatt hours of renewable energy provided annually by New Mexico's electric utilities, measured as a percent of total retail kilowatt hours sold by New Mexico's electric utilities to New Mexico's retail electric utility customers 15%

(d) Explanatory: Comparison of average residential electric rates between major New Mexico utilities and selected utilities in regional western states +/-2%

(2) Public safety:

The purpose of the public safety program is to provide services and resources to the appropriate entities to enhance their ability to protect the public from fire and pipeline hazards and other risk as assigned to the public regulation commission.

Appropriations:

(a)	Personal services and employee benefits	2,989.6	626.9	3,616.5
(b)	Contractual services	450.7	123.9	574.6
(c)	Other	1,317.5	203.7	1,521.2

Performance measures:

- (a) Output: Number of personnel completing training through the state
firefighter training academy 4,200
- (b) Outcome: Percent of statewide fire districts with insurance office
ratings of eight or better 65%

(3) Special revenues:

Appropriations:

(a)	Other financing uses	5,757.2	5,757.2
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(4) 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	1,069.4	482.5	1,551.9
(b)	Contractual services	54.4		54.4
(c)	Other	157.5	157.5	
	Subtotal		20,524.1	

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	7,378.4	1,055.2	8,433.6
(b)	Contractual services	714.9	305.0	1,019.9
(c)	Other	822.2	192.3	1,014.5

The internal service funds/interagency transfers appropriation to the insurance policy program of the office of superintendent of insurance in the personal services and employee benefits category includes one hundred fourteen thousand dollars (\$114,000) for the salary of the superintendent.

Performance measures:

(a) Output:	Percent of internal and external insurance-related grievances closed within one hundred eighty days of filing	98%
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(2) Patient's compensation fund:

Appropriations:

(a)	Personal services and employee benefits	155.2	155.2
(b)	Contractual services	450.4	450.4
(c)	Other	16,879.1	16,879.1
(d)	Other financing uses	665.1	665.1

(3) Special revenues:

Appropriations:

(a)	Other financing uses	7,729.3	7,729.3
	Subtotal	36,347.1	

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	1,226.9	1,226.9
(b)	Contractual services	245.0	245.0
(c)	Other	374.9	374.9

Performance measures:

(a) Output:	Number of triennial physician licenses issued or renewed	3,800
(b) Output:	Number of biennial physician assistant licenses issued or renewed	430
Subtotal		1,846.8

BOARD OF NURSING:

(1) Licensing and certification:

The purpose of the licensing and certification program is to provide regulations to nurses, hemodialysis technicians, medication aides and their education and training programs so they provide competent and professional healthcare services to consumers.

Appropriations:

(a)	Personal services and employee benefits	1,500.3	1,500.3
(b)	Contractual services	171.8	171.8
(c)	Other	660.9	660.9

Performance measures:

(a) Output:	Number of licensed practical nurse, registered nurse,
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	advanced practice nurse licenses and unlicensed assistive		
	personnel certificates issued	16,000	
Subtotal		2,333.0	

NEW MEXICO STATE FAIR:

The purpose of the state fair program is to promote the New Mexico state fair as a year-round operation with venues, events and facilities that provide for greater use of the assets of the agency.

Appropriations:

(a)	Personal services and		
	employee benefits	5,332.6	5,332.6
(b)	Contractual services	3,144.6	3,144.6
(c)	Other	3,317.4	3,317.4

Performance measures:

(a) Output:	Number of total attendees at annual state fair event	430,000
Subtotal		11,794.6

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	508.3	508.3
(b)	Contractual services	63.3	63.3
(c)	Other	126.9	126.9
(d)	Other financing uses	135.0	135.0

Performance measures:

(a) Output: Number of licenses or certifications issued within one year 725

Subtotal 833.5

GAMING CONTROL BOARD:

(1) Gaming control:

The purpose of the gaming control board is to provide strictly regulated gaming activities and to promote responsible gaming to the citizens of New Mexico so they can attain a strong level of confidence in the board's administration of gambling laws and assurance the state has competitive gaming free from criminal and corruptive elements and influences.

Appropriations:

(a) Personal services and
employee benefits 3,973.9 3,973.9

(b) Contractual services 806.1 806.1

(c) Other 1,029.5 1,029.5

Performance measures:

(a) Output: Percent of racetrack audit reports completed and mailed
within thirty business days of field work completion 93%

(b) Output: Percent of all tribal inspection reports completed and
mailed within thirty business days of field work completion 94%

Subtotal 5,809.5

STATE RACING COMMISSION:

(1) Horse racing regulation:

The purpose of the horse racing regulation program is to provide regulation in an equitable manner to New Mexico's parimutuel horse racing industry and to protect the interest of wagering patrons and the state of New Mexico in a manner that promotes a climate of economic prosperity for horsemen, horse owners and racetrack management.

Appropriations:

(a)	Personal services and employee benefits	1,395.7	1,395.7
(b)	Contractual services	797.0 664.9	1,461.9
(c)	Other	237.5 237.5	
(d)	Other financing uses		664.9 664.9

Performance measures:

(a) Outcome: Percent of equine samples testing positive for illegal substances 0.03%

(b) Output: Total amount collected from parimutuel revenues, in millions \$1

Subtotal 3,760.0

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	174.8	174.8
(b)	Contractual services	110.5	110.5
(c)	Other	47.8 47.8	

Performance measures:

(a) Output: Number of veterinarian licenses issued annually 1,050

Subtotal 333.1

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	129.4	129.4	
(b)	Contractual services	123.2	3,338.5	3,461.7
(c)	Other	231.7	231.7	

Performance measures:

(a) Output:	Revenue generated from ticket sales, in millions	\$3.5
Subtotal		3,822.8

OFFICE OF MILITARY BASE PLANNING AND SUPPORT:

The purpose of the office of military base planning and support is to provide advice to the governor and lieutenant governor on New Mexico's four military installations, to work with community support groups, to ensure that state initiatives are complementary of community actions and to identify and address appropriate state-level issues that will contribute to the long-term viability of New Mexico military installations.

Appropriations:

(a)	Personal services and employee benefits	112.4	112.4
(b)	Contractual services	74.4	74.4
(c)	Other	13.7	13.7
Subtotal		200.5	

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
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	employee benefits	463.1	1,123.5		1,586.6
(b)	Contractual services		3,974.4		3,974.4
(c)	Other	1,339.7		1,339.7	

~~[The New Mexico spaceport authority shall submit quarterly reports to the legislative finance committee and the department of finance and administration with details of efforts to recruit additional tenants and generate other sources of revenue, details of revenues and expenditures to date, a five year projection of expenditures and revenues and a strategic plan to include ways to reduce or eliminate any projected shortfalls.]~~ *LINE-ITEM VETO*

Performance measures:

(a) Outcome: Annual number of jobs created due to New Mexico spaceport

	authority efforts	225			
	Subtotal		6,900.7		
TOTAL COMMERCE AND INDUSTRY		53,887.0	75,588.3	21,059.9	
		2,624.5	153,159.7		

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 historic sites by providing the highest standards in exhibitions, performances and programs showcasing the arts, history and science of New Mexico and cultural traditions worldwide.

Appropriations:

(a)	Personal services and				
	employee benefits	15,207.6	2,311.7	108.0	94.2
					17,721.5
(b)	Contractual services	797.2	535.7		1,332.9
(c)	Other	4,150.3	1,824.7	3.5	5,978.5

Performance measures:

(a) Output: Attendance to museum and historic site exhibitions,

performances, films and other presenting programs 840,000

(2) Preservation:

The purpose of the preservation program is to identify, study and protect New Mexico's unique cultural resources, including its archaeological sites, architectural and engineering achievements, cultural landscapes and diverse heritage.

Appropriations:

(a)	Personal services and				
	employee benefits	602.0	2,353.5	597.8	3,553.3
(b)	Contractual services	36.9	352.8	180.0	569.7
(c)	Other	47.3	124.3	511.4	683.0

The other state funds appropriations to the preservation program of the cultural affairs department include one million dollars (\$1,000,000) from the department of transportation for archaeological studies as needed for highway projects.

Performance measures:

(a) Output:	Number of participants in educational, outreach and special		
	events related to preservation mission	23,000	
(b) Output:	Number of historic structures preservation projects		
	completed annually using preservation tax credits	40	

(3) Library services:

The purpose of the library services program is to empower libraries to support the educational, economic and health goals of their communities and to deliver direct library and information services to those who need them.

Appropriations:

(a)	Personal services and				
	employee benefits	1,932.7		752.6	2,685.3
(b)	Contractual services	1,058.3		58.5	1,116.8
(c)	Other	1,316.3	75.5	716.6	2,108.4

~~[The general fund appropriations to the library services program of the cultural affairs department include sufficient funding for annual recognition of a New Mexico poet and promotion of the reading and writing of poetry through the state library and distribution of a newsletter or other materials.]~~ LINE-ITEM VETO

Performance measures:

(a) Output: Number of participants in educational, outreach and special events related to library mission 20,500

(b) Outcome: Percent of grant funds from recurring appropriations distributed to communities of fewer than twenty thousand people 75%

(4) Arts:

The purpose of the arts program is to preserve, enhance and develop the arts in New Mexico through partnerships, public awareness and education.

Appropriations:

(a)	Personal services and employee benefits	726.2	50.0	152.0	928.2
(b)	Contractual services	679.5		408.1	1,087.6
(c)	Other	152.0	8.9	160.9	

Performance measures:

(a) Output: Number of participants in educational and outreach programs and workshops, including participants from rural areas 4,300

(5) Program support:

The purpose of program support is to deliver effective, efficient, high-quality services in concert with the core agenda of the governor.

Appropriations:

(a)	Personal services and employee benefits	3,500.7			3,500.7
(b)	Contractual services	147.4	431.7		579.1
(c)	Other	393.9	100.0	493.9	

Performance measures:

(a) Output: Number of material weakness audit findings in the last

available financial statement audit 0

Subtotal 42,499.8

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 1,194.9 3,344.9 4,539.8

(b) Contractual services 283.1 283.1

(c) Other 206.0 1,197.8 1,403.8

Performance measures:

(a) Output: Number of road stops per month 80

(b) Outcome: Number of livestock determined to be stolen per one

thousand head inspected 0.01

(c) Outcome: Number of disease cases per one thousand head inspected 0.1

Subtotal 6,226.7

DEPARTMENT OF GAME AND FISH:

(1) Field operations:

The purpose of the field operations program is to promote and assist the implementation of law enforcement, habitat and public outreach programs throughout the state.

Appropriations:

(a) Personal services and

	employee benefits	6,390.7	213.1	6,603.8
(b)	Contractual services	72.8		72.8
(c)	Other	1,575.0	1,575.0	

Performance measures:

(a) Output: Number of conservation officer hours spent in the field

checking for compliance 33,000

(b) Output: Number of hunter and conservation education programs

delivered by field staff 350

(c) Output: Number of special field operations to deter, detect and

apprehend off-highway vehicle and game and fish violators 145

(2) Conservation services:

The purpose of the conservation services program is to provide information and technical guidance to any person wishing to conserve and enhance wildlife habitat and recover indigenous species of threatened and endangered wildlife.

Appropriations:

(a) Personal services and

employee benefits	3,800.0	6,119.6	9,919.6
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(b) Contractual services
3,057.8

1,226.6	1,831.2
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(c) Other 3,164.3

5,055.0	8,219.3
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(d) Other financing uses

1,471.0	323.3	1,794.3
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The other state funds appropriation to the conservation services program of the department of game and fish in the other financing uses category includes five hundred thousand dollars (\$500,000) from the game protection fund to support hunting, fishing and trapping activities and wildlife conservation measures on state park properties, five hundred thousand dollars (\$500,000) from the trail safety fund for transfer to the state parks program of the energy, mineral and natural resources department [and two hundred ninety seven thousand dollars (\$297,000) from the game protection fund for transfer to the office of the state engineer for the silvery minnow refugium]. *LINE-ITEM VETO*

Performance measures:

(a) Outcome: Number of days of elk hunting opportunity provided to New

Mexico resident hunters on an annual basis 200,000

(b) Outcome: Percent of public hunting licenses drawn by New Mexico

resident hunters 86%

(c) Output: Annual output of fish from the department's hatchery

system, in pounds 620,000

(3) Wildlife depredation and nuisance abatement:

The purpose of the wildlife depredation and nuisance abatement program is to provide complaint administration and intervention processes to private landowners, leaseholders and other New Mexicans so they may be relieved of, and precluded from, property damage and annoyances or risks to public safety caused by protected wildlife.

Appropriations:

(a) Personal services and

employee benefits	289.0	289.0
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(b) Contractual services	125.7	125.7
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(c) Other	625.4	625.4
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Performance measures:

(a) Outcome: Percent of depredation complaints resolved within the

mandated one-year timeframe 95%

(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	4,012.1	4,012.1
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(b) Contractual services	506.0	506.0
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(c) Other	3,124.4	322.4	3,446.8
Subtotal		40,247.6	

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:

(1) Renewable energy and energy efficiency:

The purpose of the renewable energy and energy efficiency program is to develop and implement clean energy programs to decrease per capita energy consumption, utilize 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	657.8	437.7	1,095.5
(b) Contractual services	53.5	303.9	357.4
(c) Other	103.7	147.8	251.5
(d) Other financing uses		1,199.9	1,199.9

(2) Healthy forests:

The purpose of the healthy forests program is to promote the health of New Mexico's forest lands by managing wildfires, mitigating urban-interface fire threats and providing stewardship of private and state forest lands and associated watersheds.

Appropriations:

(a) Personal services and employee benefits	3,480.2	1,742.3	5,222.5
(b) Contractual services	81.7	310.5	392.2
(c) Other	511.3	427.7	2,808.0
(d) Other financing uses	250.0	25.6	3,747.0
			275.6

The general fund appropriation to the healthy forests program of the energy, minerals and natural resources department in the other financing uses category includes two hundred fifty thousand dollars (\$250,000) for the forest and watershed restoration fund contingent on enactment of House Bill 38 or similar legislation of the first session of the fifty-second legislature.

Performance measures:

- (a) Output: Number of nonfederal wildland firefighters provided
professional and technical incident command system training 1,875
- (b) Output: Number of acres treated in New Mexico's forest and
watersheds 19,000

(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 8,842.4 2,590.1 449.0 336.1 12,217.6
- (b) Contractual services 585.6 585.6
- (c) Other 75.0 7,104.9 3,266.0 1,531.6 11,977.5
- (d) Other financing uses 2,926.7 2,926.7

The general fund appropriation to the state parks program of the energy, minerals and natural resources department in the other category includes seventy-five thousand dollars (\$75,000) to define viable path routes, to mitigate challenges and establish the Rio Grande trail to run the length of the state from Colorado to Texas.

The internal service funds/interagency transfers appropriations to the state parks program of the energy, minerals and natural resources department include five hundred thousand dollars (\$500,000) from the game protection fund to support hunting, fishing and trapping activities and wildlife conservation measures on state park properties. Any unexpended balances remaining at the end of fiscal year 2016 from this appropriation shall revert to the game protection fund.

Notwithstanding the provisions of Section 66-3-1019 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to the state parks program of the energy, minerals and natural resources department include five hundred thousand dollars (\$500,000) from the trail safety fund for state park operations.

Performance measures:

- (a) Explanatory: Number of visitors to state parks 3,900,000
- (b) Explanatory: Self-generated revenue per visitor, in dollars \$0.96

(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	533.9	594.1	68.0	1,909.6	3,105.6
(b)	Contractual services			29.9	4,689.6	4,719.5
(c)	Other	10.5	76.4	29.0	259.2	375.1
(d)	Other financing uses			37.0		37.0

(5) Oil and gas conservation:

The purpose of the oil and gas conservation program is to assure the conservation and responsible development of oil and gas resources through professional, dynamic regulation.

Appropriations:

(a)	Personal services and					
	employee benefits	1,948.7		3,432.4		206.2 5,587.3
(b)	Contractual services		111.5	4,691.5		4,803.0
(c)	Other	578.5	114.8	20.0	713.3	
(d)	Other financing uses		31.3	336.2	115.0	482.5

Performance measures:

(a) Output:	Number of inspections of oil and gas wells and associated	
	facilities	39,000

(6) Program leadership and support:

The purpose of program leadership and support is to provide leadership, set policy and provide support for every division in achieving their goals.

Appropriations:

(a)	Personal services and
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employee benefits	2,937.3	1,065.8	569.2	4,572.3
(b) Contractual services	107.3	9.9	36.4	153.6
(c) Other	58.3	41.2	279.4	378.9
Subtotal		65,177.1		

NEW MEXICO YOUTH CONSERVATION CORPS:

The purpose of the New Mexico 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	171.1	171.1		
(b) Contractual services		4,142.0		4,142.0
(c) Other	113.1	113.1		
(d) Other financing uses		250.0		250.0

Performance measures:

(a) Output: Number of youth employed annually	840
Subtotal	4,676.2

INTERTRIBAL CEREMONIAL OFFICE:

The purpose of the intertribal ceremonial office is to aid in the planning, coordination and development of a successful intertribal ceremonial event in coordination with the Native American population.

Appropriations:

(a) Contractual services	104.8	104.8
Subtotal	104.8	

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 they may be a significant legacy for generations to come.

Appropriations:

(a)	Personal services and employee benefits	11,454.9	11,454.9
(b)	Contractual services	1,507.8	1,507.8
(c)	Other	1,815.6	1,815.6

The commissioner of public lands is authorized to hold in suspense amounts received pursuant to agreements entered into for the sale of state royalty interests that, as a result of sale, became eligible for tax credits under Section 29 of the federal Internal Revenue Code, above those amounts required by law to be transferred to the land grant permanent fund. The commissioner may expend as much of the money so held in suspense, as well as additional money held in escrow accounts resulting from the sales and money held in fund balance, as is necessary to repurchase the royalty interests pursuant to the agreements.

Performance measures:

- (a) Outcome: Bonus income per leased acre from oil and gas activities,
in dollars \$450
 - (b) Outcome: Dollars generated through oil, natural gas and mineral
audit activities, in millions \$2.4
 - (c) Output: Average income per acre from oil, natural gas and mineral
activities, in dollars \$250
- Subtotal 14,778.3

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 all New Mexicans can maintain their quality of life and to provide safety inspections of all nonfederal dams within the state for owners and operators of such dams so they can operate the dam safely.

Appropriations:

(a)	Personal services and employee benefits	12,051.1	555.2	69.1	12,675.4
(b)	Contractual services			624.7	624.7
(c)	Other	69.4	1,327.2		1,396.6

Notwithstanding the provisions of Section 72-14-23 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to the water resource allocation program of the state engineer include one million eight hundred seventy-three thousand four hundred dollars (\$1,873,400) from the New Mexico irrigation works construction fund.

Notwithstanding the provisions of Section 72-14-6 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to the water resource allocation program of the state engineer include one hundred forty-seven thousand six hundred dollars (\$147,600) from the improvement of the Rio Grande income fund.

Performance measures:

(a) Output: Average number of unprotested new and pending applications

processed per month 70

(b) Explanatory: Number of unprotested and unaggrieved water right

applications backlogged 650

(c) Outcome: Number of dams inspected per year and notices delivered to

owners notifying them of potential problems 100

(d) Outcome: Number of transactions abstracted annually into the water

administration technical engineering resource system

database 23,000

(2) Interstate stream compact compliance and water development:

The purpose of the interstate stream compact compliance and water development program is to provide resolution of federal and interstate water issues and to develop water resources and stream systems for the people of New Mexico so they can have maximum sustained beneficial use of available water resources.

Appropriations:

(a) Personal services and

	employee benefits	1,805.4	76.7	2,231.6		4,113.7
(b)	Contractual services	155.0	85.0	5,044.6	31.5	5,316.1
(c)	Other	2.0	224.3	3,573.7	135.2	3,935.2
(d)	Other financing uses			643.3		643.3

Notwithstanding the provisions of Section 72-14-23 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include seven million nine hundred eighteen thousand three hundred dollars (\$7,918,300) from the New Mexico irrigation works construction fund.

Notwithstanding the provisions of Section 72-14-6 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include one million eight hundred nine thousand dollars (\$1,809,000) from the improvement of the Rio Grande income 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 state engineer use of the revenue is appropriated to the interstate stream commission for the conservation and recovery of the listed species in the middle Rio Grande basin, including optimizing middle Rio Grande conservancy district operations.

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include 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 [~~and two hundred ninety-seven thousand dollars (\$297,000) from the game protection fund for silvery minnow refugium operations~~]. Any unexpended balances remaining at the end of fiscal year 2016 from these appropriations shall revert to the game protection fund. *LINE-ITEM VETO*

The appropriations to the interstate stream compact compliance and water development program of the state engineer include one million nine hundred thousand dollars (\$1,900,000): (a) to match seventeen and one-half percent of the cost of work undertaken by the United States army corps of engineers pursuant to the federal Water Resources Development Act of 1986, provided that no amount of this appropriation shall be expended for any project unless the appropriate acequia system or community ditch has agreed to provide seven and one-half percent of the cost from any source other than the New Mexico irrigation works construction fund or improvement of the Rio Grande income fund and provided that no more than two hundred fifty thousand dollars (\$250,000) shall be allocated to one acequia or community ditch per fiscal year; (b) for the construction, restoration, repair and protection from floods of dams, reservoirs, ditches, diversions, flumes and appurtenances of acequias and community ditches in the state through the interstate stream commission 90/10 match program provided that not more than one hundred fifty thousand dollars (\$150,000) of this appropriation shall be used as the state share for any one acequia or community ditch per state fiscal year and capital appropriations shall not be used to meet the acequia's or community ditch's ten percent share of project costs; and (c) up to three hundred thousand dollars (\$300,000) of the appropriations in the contractual services category may be used for engineering services for approved acequia or community ditch projects.

The interstate stream commission's authority to make loans for irrigation improvements includes five hundred thousand dollars (\$500,000) for loans to acequia, irrigation and conservancy districts. The interstate stream commission's authority also 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.

The interstate stream commission's authority to make loans from the New Mexico irrigation works construction fund includes two million dollars (\$2,000,000) for irrigation districts, acequias, conservancy districts and soil and water conservation districts for purchase and installation of meters and measuring equipment. The maximum loan term is five years.

Performance measures:

(a) Outcome: Cumulative state-line delivery credit per the Pecos river

compact and amended decree at the end of calendar year, in

acre-feet >0

(b) Outcome: Cumulative state-line delivery credit per the Rio Grande

compact and ammended decree at the end of calendar year, in

acre-feet >0

(3) Litigation and adjudication:

The purpose of the litigation and adjudication program is to obtain a judicial determination and definition of water rights within each stream system and underground basin to effectively perform water rights administration and meet interstate stream obligations.

Appropriations:

(a) Personal services and

employee benefits	1,564.5	2,504.7	1,258.3
5,327.5			

(b) Contractual services		1,435.8	1,435.8
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(c) Other	306.2	306.2	
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(d) Other financing uses		610.0	610.0
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Notwithstanding the provisions of Section 72-14-23 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to the litigation and adjudication program of the state engineer include three million three hundred dollars (\$3,000,300) from the New Mexico irrigation works construction fund.

The other state funds appropriations to the litigation and adjudication program of the state engineer include three million one hundred fourteen thousand seven hundred dollars (\$3,114,700) from the water project fund pursuant to Section 72-4A-9 NMSA 1978.

Performance measures:

(a) Outcome: Number of offers to defendants in adjudications 600

(b) Outcome: Percent of all water rights with judicial determinations 59%

(c) Efficiency: Objections resolved informally without referral to mediation
85%

(4) Program support:

The purpose of program support is to provide necessary administrative support to the agency programs so they may be successful in reaching their goals and objectives.

Appropriations:

(a)	Personal services and employee benefits	3,830.4		3,830.4
(b)	Contractual services		362.4	362.4
(c)	Other	28.0	573.8	601.8

Notwithstanding the provisions of Section 72-14-23 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to program support of the state engineer include nine hundred thirty-six thousand two hundred dollars (\$936,200) from the New Mexico irrigation works construction fund.

(5) New Mexico irrigation works construction fund:

Appropriations:

(a)	Other financing uses		13,728.2	13,728.2
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(6) Improvement of the Rio Grande income fund:

Appropriations:

(a)	Other financing uses		1,956.6	1,956.6
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	Subtotal		56,863.9	
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TOTAL AGRICULTURE, ENERGY AND

NATURAL RESOURCES	71,981.6	101,745.6	21,847.8	34,999.4
	230,574.4			

F. HEALTH, HOSPITALS AND HUMAN SERVICES

OFFICE OF AFRICAN AMERICAN AFFAIRS:

(1) Public awareness:

The purpose of the public awareness program is to provide information and advocacy services to all New Mexicans and to empower African Americans of New Mexico to improve their quality of life.

Appropriations:

(a)	Personal services and employee benefits	461.3		461.3
(b)	Contractual services	207.4		207.4
(c)	Other	140.4	140.4	
	Subtotal		809.1	

COMMISSION FOR DEAF AND HARD-OF-HEARING PERSONS:

(1) Deaf and hard-of-hearing:

The purpose of the deaf and hard-of-hearing program is to serve as a dynamic resource that will enhance the quality of life for deaf and hard-of-hearing citizens of New Mexico by being the recognized advocate on important issues impacting the deaf and hard-of-hearing community, the proactive provider of innovative programs and services and the statewide umbrella and information clearinghouse for interested individuals, organizations, agencies and institutions.

Appropriations:

(a)	Personal services and employee benefits		1,111.4		1,111.4
(b)	Contractual services	300.0	668.1	864.4	1,832.5
(c)	Other	333.2	333.2		
(d)	Other financing uses		491.0		491.0

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 three hundred thousand dollars (\$300,000) for deaf and deaf-blind support service provider programs.

The internal service funds/interagency transfers appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the other financing uses category

includes four hundred sixty-six thousand dollars (\$466,000) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide deaf and hard-of-hearing rehabilitation services and twenty-five thousand dollars (\$25,000) to transfer to the signed language interpreting practices board of the regulation and licensing department for interpreter licensure services.

Performance measures:

(a) Output: Number of accessible technology equipment distributions 1,300

(b) Output: Number of clients provided assistance to reduce or eliminate communication barriers 800

Subtotal 3,768.1

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	176.4	176.4
(b)	Contractual services	12.7	12.7
(c)	Other	147.5	147.5
	Subtotal		336.6

COMMISSION FOR THE BLIND:

(1) Blind services:

The purpose of the blind services program is to assist blind or visually impaired citizens of New Mexico to achieve economic and social equality so they can have independence based on their personal interests and abilities.

Appropriations:

(a)	Personal services and		
	employee benefits	992.6 102.2	3,630.0 4,724.8

(b)	Contractual services	12.3	20.0	115.6	147.9
(c)	Other	1,149.5	4,970.0	1,833.4	7,952.9

Any unexpended balances in the blind services program of the commission for the blind remaining at the end of fiscal year 2016 from appropriations made from the general fund or other state revenues shall not revert.

Performance measures:

(a) Outcome: Average hourly wage for the blind or visually impaired

person \$16.98

(b) Output: Number of quality employment opportunities obtained for

agency's blind or visually impaired clients 28

(c) Output: Number of blind or visually impaired clients trained in the

skills of blindness to enable them to live independently in

their homes and communities 600

Subtotal 12,825.6

INDIAN AFFAIRS DEPARTMENT:

(1) Indian affairs:

The purpose of the Indian affairs program is to coordinate intergovernmental and interagency programs concerning tribal governments and the state.

Appropriations:

(a) Personal services and

employee benefits 1,196.6 1,196.6

(b) Contractual services 654.6 249.3 903.9

(c) Other 894.9 894.9

[The general fund appropriation to the Indian affairs program of the Indian affairs department in the contractual services category includes forty five thousand dollars (\$45,000) for a self-help home construction pilot project.] LINE-ITEM VETO

The internal service funds/interagency transfers appropriation to the Indian affairs program of the Indian affairs department in the contractual services category 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.

Performance measures:

(a) Outcome: Percent of capital and tribal infrastructure fund projects

over fifty thousand dollars (\$50,000) completed and closed 75%

Subtotal 2,995.4

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 persons 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	1,947.3	568.5	823.5	3,339.3
(b) Contractual services	166.0		11.0	177.0
(c) Other	89.1	31.5	238.9	359.5

Performance measures:

(a) Outcome: Percent of ombudsman complaints resolved within sixty days 95%

(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	86.9	39.0	125.9

(b)	Contractual services	77.8	10.0	87.8	
(c)	Other	30,183.4	80.0	9,707.6	39,971.0

The general fund appropriation to the aging network program of the aging and long-term services department in the other category to supplement the federal Older Americans Act shall be contracted to the designated area agencies on aging.

Any unexpended balances in the aging network program of the aging and long-term services department remaining at the end of fiscal year 2016 from appropriations made from the other state funds for the conference on aging shall not revert.

Performance measures:

(a) Outcome: Percent of individuals exiting the federal older worker

program who obtain unsubsidized employment 43%

(b) Output: Number of persons receiving aging network community services
100,000

(c) Outcome: Percent of older New Mexicans whose food insecurity is

alleviated by meals received through the aging network 62%

(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 8,277.2 8,277.2

(b) Contractual services 1,547.1 2,498.6
4,045.7

(c) Other 1,564.4 1,564.4

Performance measures:

(a) Output: Number of adults who receive in-home services or adult day

services as a result of an investigation of abuse, neglect

or exploitation 1,500

(b) Outcome: Percent of emergency or priority one investigations in which a caseworker makes initial face-to-face contact with the alleged victim within prescribed timeframes 98%

(c) Output: Number of adult protective services' investigations of abuse, neglect or exploitation 6,100

(4) Program support:

The purpose of program support is to provide clerical, record-keeping and administrative support in the areas of personnel, budget, procurement and contracting to agency staff, outside contractors and external control agencies to implement and manage programs.

Appropriations:

(a) Personal services and			
employee benefits	3,695.0	442.1	4,137.1
(b) Contractual services	128.3		128.3
(c) Other	153.8	182.7	336.5
Subtotal		62,549.7	

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 health care.

Appropriations:

(a) Personal services and				
employee benefits	5,241.5	7,882.0		13,123.5
(b) Contractual services	12,604.2	3,466.9	759.9	39,531.3
	56,362.3			
(c) Other	784,200.2	87,296.8	169,528.0	3,965,678.9
				5,006,703.9

(d) Other financing uses	21,994.9	21,994.9
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The general fund appropriation to the medical assistance program of the human services department in the other category includes one million two hundred thousand dollars (\$1,200,000) to support implementation of integrated health homes, two million dollars (\$2,000,000) to support medicaid rate adjustments for nursing facilities and one million dollars (\$1,000,000) to support medicaid rate adjustments for hospitals.

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include one million three hundred twelve thousand four hundred dollars (\$1,312,400) from the tobacco settlement program fund for the breast and cervical cancer treatment program and twenty-eight million seven hundred seven thousand three hundred dollars (\$28,707,300) from the tobacco settlement program fund for medicaid programs. Of these amounts, twenty million eight hundred thousand dollars (\$20,800,000) is contingent on enactment of Senate Bill 270 or similar legislation of the first session of the fifty-second legislature.

The appropriations to the medical assistance program of the human services department assume the state will receive a federal medical assistance percentage (FMAP) rate of 100 percent for those enrolled in the new adult category through fiscal year 2016, including those previously enrolled in the state coverage insurance program, 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 FMAP rates established by the Patient Protection and Affordable Care Act, the human services department shall reduce or rescind eligibility for the new adult category.

Performance measures:

- (a) Outcome: Percent of children ages two to twenty-one years enrolled in medicaid managed care who had at least one dental visit during the measurement year 70%
- (b) Outcome: Percent of infants in medicaid managed care who had six or more well-child visits with a primary care physician before the age of fifteen months 70%
- (c) Outcome: Average percent of children and youth ages twelve months to nineteen years in medicaid managed care who received one or more well-child visits with a primary care physician during the measurement year 92%
- (d) Outcome: Percent of children in medicaid managed care ages five to eleven years who are identified as having persistent asthma

and who were appropriately prescribed medication during the measurement year 94%

(e) Outcome: Number of emergency room visits per one thousand medicaid member months 40

(f) Outcome: Percent of hospital readmissions for adults age eighteen and over, within thirty days of discharge 9%

(2) Medicaid behavioral health:

The purpose of the medicaid behavioral health program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost health care.

Appropriations:

(a)	Other	105,705.0	380,048.0	485,753.0
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The general fund appropriation to the medicaid behavioral health program of the human services department in the other category includes five hundred thousand dollars (\$500,000) for support of behavioral health regional crisis stabilization units.

Performance measures:

(a) Outcome: Percent of readmissions to same level of care or higher for children or youth discharged from residential treatment centers and inpatient care 5%

(b) Output: Number of individuals served annually in substance abuse or mental health programs administered through the behavioral health collaborative and medicaid programs 110,000

(3) Income support:

The purpose of the income support program is to provide cash assistance and supportive services to eligible low-income families so they can achieve self-sufficiency. Eligibility requirements are established by state law within broad federal statutory guidelines.

Appropriations:

(a) Personal services and

	employee benefits	20,972.9	472.3	35,069.8	56,515.0
(b)	Contractual services	5,008.6	55.9	27,427.1	
		32,491.6			
(c)	Other	18,349.7	2,984.0	747,198.8	768,532.5
(d)	Other financing uses			53,292.8	53,292.8

~~[No less than fifteen percent and no more than twenty-five percent of the federal funds for the low-income home energy assistance program shall be used for weatherization programs.]~~ *LINE-ITEM VETO*

The federal funds appropriations to the income support program of the human services department include eleven million five hundred seven thousand seven hundred dollars (\$11,507,700) from the federal temporary assistance for needy families block grant for administration of the New Mexico Works Act.

The appropriations to the income support program of the human services department include eighty-seven thousand one hundred dollars (\$87,100) from the general fund and fifty-five million seven hundred fifty thousand dollars (\$55,750,000) from the federal temporary assistance for needy families block grant to provide cash assistance grants to participants as defined in the New Mexico Works Act, including wage subsidies for participants, two clothing allowances per year, diversion payments and state-funded payments to aliens. The cash assistance grants to participants shall be at least five percent greater in fiscal year 2016 than in fiscal year 2015.

The federal funds appropriations to the income support program of the human services department include nine million seven hundred thousand dollars (\$9,700,000) from the federal temporary assistance for needy families block grant for job training and placement and job-related transportation services, seven hundred thousand dollars (\$700,000) for employment-related costs, one million seven hundred fifty thousand dollars (\$1,750,000) for a substance abuse treatment program and three million nine hundred fifty-one thousand dollars (\$3,951,000) for a transitional employment program.

The federal funds appropriations to the income support program of the human services department include thirty million five hundred twenty-seven thousand five hundred dollars (\$30,527,500) from the federal temporary assistance for needy families block grant for transfer to the children, youth and families department for childcare programs, four million five hundred thousand dollars (\$4,500,000) for home visiting, thirteen million six hundred thousand dollars (\$13,600,000) for pre-kindergarten and nine hundred thousand dollars (\$900,000) for a pilot supportive housing project.

The federal funds appropriations to the income support program of the human services department include three million five hundred thousand dollars (\$3,500,000) from the federal temporary assistance for needy families block grant for transfer to the public education department for pre-kindergarten.

The appropriations to the income support program of the human services department include seven million one hundred twenty-seven thousand three hundred dollars (\$7,127,300) from the general fund and two million eight hundred fifteen thousand three hundred dollars (\$2,815,300) from other state funds for general assistance. Any unexpended balances remaining at the end of fiscal year 2016 from the other state funds appropriation derived from reimbursements received from the social security administration for the general assistance program shall not revert.

The general fund appropriations to the income support program of the human services department include two hundred ten thousand nine hundred dollars (\$210,900) for the Navajo sovereign temporary assistance for needy families program and thirty-one thousand dollars (\$31,000) for the Zuni sovereign temporary assistance for needy families program.

Performance measures:

- (a) Outcome: Percent of parent participants who meet temporary assistance for needy families federal work participation requirements 55%
- (b) Outcome: Percent of temporary assistance for needy families two-parent recipients meeting federal work participation requirements 60%
- (c) Outcome: Percent of eligible children in families with incomes of one hundred thirty percent of the federal poverty level participating in the supplemental nutrition assistance program 88%
- (d) Outcome: Percent of adult temporary assistance for needy families recipients who become newly employed during the report year 52%

(4) Behavioral health services:

The purpose of the behavioral health services program is to lead and oversee the provision of an integrated and comprehensive behavioral health prevention and treatment system so that the program fosters recovery and supports the health and resilience of all New Mexicans.

Appropriations:

- (a) Personal services and employee benefits 1,912.7 703.9 2,616.6
- (b) Contractual services 37,377.2 17,032.1
54,409.3
- (c) Other 444.7 21.0 89.8 555.5

(d) Other financing uses 426.3 426.3

The general fund appropriation to the behavioral health services program of the human services department in the contractual services category includes eight hundred thousand dollars (\$800,000) for support of regional crisis stabilization units, six hundred fifty thousand dollars (\$650,000) for transitional and supportive housing programs, fifty thousand dollars (\$50,000) for supportive services for the homeless and two hundred fifty thousand dollars (\$250,000) for non-medicaid in-patient psychiatric services.

Performance measures:

(a) Outcome: Percent of people receiving substance abuse treatments who demonstrate improvement in the alcohol domain 90%

(b) Outcome: Percent of people receiving substance abuse treatments who demonstrate improvement in the drug domain 80%

(c) Outcome: Percent of individuals discharged from inpatient facilities who receive follow-up services at thirty days 65%

(d) Outcome: Percent of people with a diagnosis of alcohol or drug dependency who initiated treatment and received two or more additional services within thirty days of the initial visit 35%

(e) Explanatory: Number of suicides among youth served by the behavioral health collaborative and medicaid programs 2

(5) Child support enforcement:

The purpose of the child support enforcement program is to provide location, establishment and collection services for custodial parents and their children; to ensure that all court orders for support payments are being met to maximize child support collections; and to reduce public assistance rolls.

Appropriations:

(a) Personal services and			
employee benefits	4,947.6	3,652.2	12,092.8
	20,692.6		
(b) Contractual services	1,782.1	1,287.3	4,259.9
	7,329.3		

(c)	Other	1,216.9	930.0	3,071.0	5,217.9
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Performance measures:

(a) Outcome: Percent of cases having current support due and for which support is collected 62%

(b) Outcome: Amount of child support collected, in millions \$140

(c) Outcome: Percent of cases with support orders 85%

(d) Outcome: Percent of children born out of wedlock with paternity establishment in child support cases 100%

(6) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program and to assist it in achieving its programmatic goals.

Appropriations:

(a)	Personal services and				
	employee benefits	5,207.3	3,427.4		10,659.0
		19,293.7			
(b)	Contractual services	6,766.7	130.2		11,213.4
		18,110.3			
(c)	Other	5,015.3	742.5	9,913.8	15,671.6

Performance measures:

(a) Efficiency: Percent compliance with internal schedule for turnaround time associated with the expenditure of federal funds and the request for reimbursement for expenditures from federal treasury 100%

Subtotal				6,639,092.6	
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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	864.4	2,592.8	5,344.0	8,801.2
(b)	Contractual services		79.9	283.7	363.6
(c)	Other	362.9	1,152.5	1,515.4	

The internal service funds/interagency transfers appropriations to the unemployment insurance program of the workforce solutions department include nine hundred thousand dollars (\$900,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

- (a) Output: Percent of eligible unemployment insurance claims issued a determination within twenty-one days from the date of claim 80%
- (b) Output: Percent of all first payments made within fourteen days after the waiting week 85%
- (c) 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 15
- (d) Output: Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a weekly certification, in minutes 15

(2) Labor relations:

The purpose of the labor relations program is to provide employment rights information and other work-site-based assistance to employers and employees.

Appropriations:

(a)	Personal services and employee benefits	859.1	1,097.0	166.1	2,122.2
(b)	Contractual services	44.0		44.0	
(c)	Other	63.7	1,483.4	63.9	1,611.0

The internal service funds/interagency transfers appropriations to the labor relations program of the workforce solutions department include six hundred thousand dollars (\$600,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

(a) Output: Number of targeted public works inspections completed 1,600

(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	500.7	116.8	2,711.4	3,328.9
(b)	Contractual services	8,124.2	3,834.9	1,581.1	2,708.2
(c)	Other	3,146.5	120.0	3,266.5	

(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 are responsive to the needs of New Mexico businesses.

Appropriations:

(a)	Personal services and employee benefits	1,211.5	125.0	5,659.3	6,995.8
(b)	Contractual services	203.2		4,802.8	5,006.0
(c)	Other	46.8	5,019.5	5,066.3	

The general fund appropriation to the employment services program of the workforce solutions department in the contractual services category includes one hundred thousand dollars (\$100,000) for business leadership training.

Performance measures:

(a) Output: Number of personal contacts made by field office personnel
with New Mexico businesses to inform them of available
services 110,000

(b) Output: Total number of individuals receiving Wagner-Peyser
employment services 135,000

(c) Outcome: Percent of individuals who enter employment after receiving
Workforce Investment Act services 70%

(d) Output: Percent of individuals who receive Workforce Investment Act
services that retain employment 87%

(5) Special revenue:

Appropriations:

(a) Other financing uses 7,144.7 7,144.7

(6) 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 114.2 299.3 6,383.1 6,796.6

(b) Contractual services 327.0 735.5 1,062.5

(c) Other 459.5 16,931.0 17,390.5

Subtotal 78,639.4

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	7,791.6	7,791.6
(b)	Contractual services	385.7	385.7
(c)	Other	1,549.9	1,549.9
(d)	Other financing uses	1,500.0	1,500.0

The other state funds appropriation to the workers' compensation program of the workers' compensation administration in the other financing uses category includes nine hundred thousand dollars (\$900,000) from the workers' compensation administration fund for the unemployment insurance program of the workforce solutions department and six hundred thousand dollars (\$600,000) from the workers' compensation administration fund for the labor relations program of the workforce solutions department.

Performance measures:

(a)	Outcome: Rate of serious injuries and illnesses caused by workplace conditions per one hundred workers	0.6
(b)	Outcome: Percent of employers referred for investigation that are determined to be in compliance with insurance requirements of the Workers' Compensation Act	90%
(c)	Output: Number of first reports of injury processed	30,000

(2) Uninsured employers' fund:

Appropriations:

(a)	Personal services and employee benefits	318.0	318.0
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(b)	Contractual services		50.0	50.0
(c)	Other	802.2	802.2	
	Subtotal		12,397.4	

DIVISION OF VOCATIONAL REHABILITATION:

(1) Rehabilitation services:

The purpose of the rehabilitation services program is to promote opportunities for people with disabilities to become more independent and productive by empowering individuals with disabilities so they may maximize their employment, economic self-sufficiency, independence and inclusion and integration into society.

Appropriations:

(a)	Personal services and			
	employee benefits	2,729.8	9,932.8	12,662.6
(b)	Contractual services	167.2	619.8	787.0
(c)	Other	1,518.9	300.0	466.0
			12,831.0	15,115.9

The internal service funds/interagency transfers appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes four hundred sixty-six thousand dollars (\$466,000) to match with federal funds to support and enhance deaf and hard-of-hearing rehabilitation services.

Any unexpended or unencumbered balance in the division of vocational rehabilitation remaining at the end of fiscal year 2016 from appropriations made from the general fund shall not revert.

Performance measures:

- (a) Outcome: Number of clients achieving suitable employment for a minimum of ninety days 900
- (b) Outcome: Percent of clients achieving suitable employment outcomes of all cases closed after receiving planned services 56%

(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)	Personal services and employee benefits	44.5		44.5
(b)	Other	1,239.7	256.1	1,495.8

Performance measures:

(a) Output: Number of individuals served for independent living 1,025

(3) Disability determination:

The purpose of the disability determination program is to produce accurate and timely eligibility determinations to social security disability applicants so they may receive benefits.

Appropriations:

(a)	Personal services and employee benefits		6,346.5	6,346.5
(b)	Contractual services		552.4	552.4
(c)	Other	10,223.5		10,223.5

Performance measures:

(a) Efficiency: Average number of days for completing an initial disability claim 100

(b) Quality: Percent of initial disability determinations completed accurately 98%

Subtotal 47,228.2

GOVERNOR'S COMMISSION ON DISABILITY:

(1) Governor's commission on disability:

The purpose of the governor's commission on disability program is to promote policies and programs that focus on common issues faced by New Mexicans with disabilities, regardless of type of disability, age or other factors. The commission educates state administrators, legislators and the general public on the issues facing New Mexicans with disabilities, especially as they relate to Americans with Disabilities Act

directives, building codes, disability technologies and disability culture so they can improve the quality of life of New Mexicans with disabilities.

Appropriations:

(a)	Personal services and employee benefits	743.9	195.0	938.9	
(b)	Contractual services	150.9	96.4	247.3	
(c)	Other	206.5	100.0	143.0	449.5

Performance measures:

(a)	Outcome: Percent of requested architectural plan reviews and site inspections completed	90%
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(2) Brain injury advisory council:

The purpose of the brain injury advisory council program is to provide guidance on the use and implementation of programs provided through the human services department's brain injury services fund so the department may align service delivery with needs identified by the brain injury community.

Appropriations:

(a)	Personal services and employee benefits	76.5	76.5
(b)	Contractual services	83.0	83.0
(c)	Other	62.2	62.2
	Subtotal		1,857.4

DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:

(1) Developmental disabilities planning council:

The purpose of the developmental disabilities planning council program is to provide and produce opportunities for people with disabilities so they may realize their dreams and potential and become integrated members of society.

Appropriations:

(a)	Personal services and
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	employee benefits	449.8		179.2	629.0
(b)	Contractual services		13.5		272.1 285.6
(c)	Other	316.0	75.0	29.0	420.0

(2) Office of guardianship:

The purpose of the office of guardianship program is to enter into, monitor and enforce guardianship contracts for income-eligible people 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	381.4			381.4
(b)	Contractual services		4,155.1		460.0 4,615.1
(c)	Other	83.2		83.2	

Any unexpended balance in the office of guardianship of the developmental disabilities planning council remaining at the end of fiscal year 2016 from appropriations made from the general fund and internal service funds/interagency transfers shall not revert.

Performance measures:

- (a) Outcome: Percent of protected people properly served with the least restrictive means, as evidenced by an annual technical compliance audit 98%

Subtotal 6,414.3

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	15,923.5	273.0	16,196.5
(b)	Contractual services	4,120.3	101.7	4,222.0
(c)	Other	5,903.0	100.3	6,003.3
(d)	Other financing uses		6,000.0	6,000.0

~~[The other state funds appropriation to the healthcare program of the miners' hospital of New Mexico in the personal services and employee benefits category includes ninety thousand four hundred dollars (\$90,400) for an average three percent salary increase effective the first full pay period after July 1, 2015 for all nursing staff, home health aides, psychiatric technicians and nursing and certified medication aides in budgeted positions, with satisfactory job performance and a completed probationary period.] LINE-ITEM VETO~~

The internal service funds/interagency transfers appropriation to the healthcare program of miners' hospital of New Mexico in the other financing uses category includes six million dollars (\$6,000,000) from the miners' trust fund.

Performance measures:

- (a) Outcome: Annual percent of healthcare-associated infections <1.5%
- (b) Outcome: Rate of unassisted patient falls per one thousand patient days in the long-term care facility <5%
- (c) Quality: Percent of patients readmitted to the hospital within thirty days with the same or similar diagnosis <5%

Subtotal 32,421.8

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 health care.

Appropriations:

- (a) Personal services and

employee benefits	26,685.6	2,232.7	2,210.0	21,454.0
	52,582.3			

(b)	Contractual services	23,902.6	4,301.6	10,543.9
	9,996.1	48,744.2		
(c)	Other	13,051.3	25,233.2	128.6
				41,433.4
				79,846.5
(d)	Other financing uses	560.3		560.3

~~[The general fund appropriation to the public health program of the department of health in the personal services and employee benefits category includes two hundred forty-two thousand two hundred dollars (\$242,200) for an average three percent salary increase effective the first full pay period after July 1, 2015 for all nursing staff, home health aides, psychiatric technicians and nursing and certified medication aides in budgeted positions, with satisfactory job performance and a completed probationary period.] LINE-ITEM VETO~~

The general fund appropriation to the public health program of the department of health in the contractual services category includes ten million twelve thousand six hundred dollars (\$10,012,600) to support rural and primary healthcare clinics statewide. Any unexpended balances in the public health program of the department of health in the contractual services category from appropriations made from the county-supported medicaid fund for the support of primary healthcare services related to the Rural Primary Health Care Act remaining at the end of fiscal year 2016 shall not revert.

The general fund appropriation to the public health program of the department of health in the contractual services category includes an additional two hundred thousand dollars (\$200,000) for county and tribal councils to identify local community health needs and fifty thousand dollars (\$50,000) for coordinated cancer prevention, research and education services, including access to clinical trials in rural areas.

The general fund appropriation to the public health program of the department of health in the contractual services category includes fifty thousand dollars (\$50,000) to provide school-based health services ~~[at West Mesa high school in Albuquerque].~~ LINE-ITEM VETO

The other state funds appropriation to the public health program of the department of health in the other category includes six hundred thousand dollars (\$600,000) from revenue collected from health insurers and group health plans for the costs of childhood vaccinations for insured children in New Mexico. The public health program shall work with the office of superintendent of insurance to require that health insurers and group health plans reimburse the state for the costs of childhood vaccinations for insured children in New Mexico.

The internal service funds/interagency transfers appropriations to the public health program of the department of health include five million six hundred eighty-two thousand dollars (\$5,682,000) from the tobacco settlement program fund for smoking cessation and prevention programs, seven hundred forty-eight thousand dollars (\$748,000) from the tobacco settlement program fund for diabetes and obesity prevention and control services, two hundred ninety-three thousand dollars (\$293,000) from the tobacco settlement program fund for human immunodeficiency virus/AIDS 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.

Performance measures:

~~[(a) Output:—Percent of preschoolers (ages nineteen to thirty-five months) fully immunized—85%]~~

LINE-ITEM VETO

(b) Quality: Percent of students using school-based health centers who receive a comprehensive well exam 38%

(c) Outcome: Percent of teens participating in pregnancy prevention programs who report not being pregnant, or being responsible for getting someone pregnant, during the school year following participation at the end of the school year 100%

(2) Epidemiology and response:

The purpose of the epidemiology and response program is to monitor health, provide health information, prevent disease and injury, promote health and healthy behaviors, respond to public health events, prepare for health emergencies and provide emergency medical and vital registration services to New Mexicans.

Appropriations:

(a) Personal services and employee benefits	4,825.0	957.7	263.5	6,798.4	12,844.6
(b) Contractual services	2,999.2	443.1	78.0	4,099.8	7,620.1
(c) Other	6,070.8	114.9	83.1	2,439.7	8,708.5

~~[The general fund appropriation to the epidemiology and response program of the department of health in the personal services and employee benefits category includes seven thousand eight hundred dollars (\$7,800) for an average three percent salary increase effective the first full pay period after July 1, 2015 for all nursing staff, home health aides, psychiatric technicians and nursing and certified medication aides in budgeted positions, with satisfactory job performance and a completed probationary period.]~~ *LINE-ITEM VETO*

Performance measures:

(a) Quality: Percent of acute care hospitals reporting stroke data into approved national registry 13.6%

(b) Outcome: Ratio of infant pertussis cases to total pertussis cases of all ages 1:15

(3) Laboratory services:

The purpose of the laboratory services program is to provide laboratory analysis and scientific expertise for policy development for tax-supported public health, environment and toxicology programs in the state of New Mexico to provide timely identification of threats to the health of New Mexicans.

Appropriations:

(a)	Personal services and				
	employee benefits	5,753.0	1,300.0		1,122.7
		8,175.7			
(b)	Contractual services	142.0	53.2	17.7	212.9
(c)	Other	2,587.5	1,178.1	998.3	4,763.9

Performance measures:

- (a) Efficiency: Percent of blood alcohol tests from driving-while-intoxicated cases completed and reported to law enforcement within fifteen business days 90%
- (b) Efficiency: Percent of office of medical investigator cause-of-death toxicology cases completed and reported to the office of medical investigator within sixty business days 90%

(4) Facilities management:

The purpose of the facilities management program is to provide oversight for department of health facilities that provide health and behavioral healthcare services, including mental health, substance abuse, nursing home and rehabilitation programs in both facility- and community-based settings, and serve as the safety net for the citizens of New Mexico.

Appropriations:

(a)	Personal services and				
	employee benefits	44,744.0	58,637.1	682.2	104,063.3
(b)	Contractual services	4,677.4	5,967.8	33.8	
		10,679.0			
(c)	Other	11,007.7	11,955.6		22,963.3

~~[The general fund appropriation to the facilities management program of the department of health in the personal services and employee benefits category includes seven hundred sixteen thousand seven hundred dollars (\$716,700) for an average three percent salary increase effective the first full pay period after July 1, 2015 for all nursing staff, home health aides, psychiatric technicians and nursing and certified medication aides in budgeted positions, with satisfactory job performance and a completed probationary period.]~~ *LINE-ITEM VETO*

Performance measures:

(a) Output: Percent of staffed beds filled at all agency facilities 90%

(b) Explanatory: Percent of patient costs at agency facilities that are uncompensatable 30%

(c) Outcome: Percent of long-term care patients experiencing one or more falls with injury 3.3%

(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	5,769.1	5,849.8	478.5	12,097.4
(b)	Contractual services	11,559.7	1,200.0	2,565.7	
		1,261.2	16,586.6		
(c)	Other	20,171.3	1,799.1	1,080.7	23,051.1
(d)	Other financing uses	111,734.7			111,734.7

~~[The general fund appropriation to the developmental disabilities support program of the department of health in the personal services and employee benefits category includes sixteen thousand eight hundred dollars (\$16,800) for an average three percent salary increase effective the first full pay period after July 1, 2015 for all nursing staff, home health aides, psychiatric technicians and nursing and certified medication aides in budgeted positions, with satisfactory job performance and a completed probationary period.]~~ *LINE-ITEM VETO*

The general fund appropriation to the developmental disabilities support program of the department of health in the contractual services category includes ten thousand dollars (\$10,000) for the [Las Vegas] special olympics. *LINE-ITEM VETO*

The general fund appropriation to the developmental disabilities support program of the department of health in the other financing uses category includes four hundred fifty thousand dollars (\$450,000) for developmental disabilities medicaid waiver program provider rate increases, four hundred fifty thousand dollars (\$450,000) for family, infant, toddler program provider rate increases and one hundred three million two hundred ninety-two thousand seven hundred dollars (\$103,292,700) for medicaid waiver services in local communities: one million four hundred thousand dollars (\$1,400,000) for medically fragile services and one hundred one million eight hundred ninety-two thousand seven hundred dollars (\$101,892,700) for services to the developmentally disabled.

Performance measures:

(a) Efficiency: Percent of developmental disabilities waiver applicants who
 have a service plan in place within ninety days of income
 and clinical eligibility determination 93%

(b) Explanatory: Number of individuals on the developmental disabilities
 waiver receiving services 4,600

(c) Explanatory: Number of individuals on the developmental disabilities
 waiver waiting list 6,300

(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 health care and that vulnerable populations are safe from abuse, neglect and exploitation.

Appropriations:

(a)	Personal services and				
	employee benefits	3,555.5	1,195.6	3,199.3	1,845.6
		9,796.0			
(b)	Contractual services	382.3	367.6	113.1	199.6
					1,062.6
(c)	Other	755.2	147.6	508.2	604.6
					2,015.6

~~[The general fund appropriation to the health certification, licensing and oversight program of the department of health in the personal services and employee benefits category includes sixteen thousand five hundred dollars (\$16,500) for an average three percent salary increase effective the first full pay period after July 1, 2015 for all nursing staff, home health aides, psychiatric technicians and nursing and certified medication aides in budgeted positions, with satisfactory job performance and a completed probationary period.] LINE-ITEM VETO~~

Performance measures:

- (a) Output: Percent of abuse, neglect and exploitation incidents for
community-based programs investigated within forty-five days 95%

(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	607.1	607.1
(b)	Contractual services	242.9	242.9
(c)	Other	576.2	576.2

(8) Administration:

The purpose of the administration program is to provide leadership, policy development, information technology, administrative and legal support to the department of health so it achieves a high level of accountability and excellence in services provided to the people of New Mexico.

Appropriations:

(a)	Personal services and employee benefits	4,963.2	398.9	4,910.3	10,272.4	
(b)	Contractual services	250.5	58.4	91.6	813.3	1,213.8
(c)	Other	433.1	4.2	77.4	815.6	1,330.3
	Subtotal					552,351.3

DEPARTMENT OF ENVIRONMENT:

(1) Environmental health:

The purpose of the environmental health program is to protect public health and the environment through specific programs that provide regulatory oversight over food service and food processing facilities, compliance with the Safe Drinking Water Act, regulation of on-site treatment and disposal of liquid

wastes, regulation of public swimming pools and baths, application of the mosquito abatement regulation and oversight of the waste isolation pilot plant transportation.

Appropriations:

(a) Personal services and

employee benefits	4,407.0	100.0	8,963.0	4,176.9
	17,646.9			

(b) Contractual services	277.1		2,840.0	1,020.1
	4,137.2			

(c) Other	807.2	1,316.1	389.5	2,512.8
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Performance measures:

(a) Outcome: Percent of high-risk food-related violations issued to permitted commercial food establishments that are corrected within the timeframes noted on the inspection report 100%

(b) Output: Percent of public water systems surveyed to ensure compliance with drinking water regulations 96%

(c) Efficiency: Percent of public drinking water systems inspected within one week of confirmation of system problems that might acutely impact public health 100%

(d) Output: Percent of large quantity hazardous waste generators inspected 25%

(2) Resource protection:

The purpose of the resource protection program is to protect the quality of New Mexico's ground- and surface-water resources to ensure clean and safe water supplies are available now and in the future to support domestic, agricultural, economic and recreational activities and provide healthy habitat for fish, plants and wildlife and to ensure that hazardous waste generation, storage, treatment and disposal are conducted in a manner protective of public health and environmental quality.

Appropriations:

(a) Personal services and

employee benefits	2,012.4	190.2	5,251.5	6,305.8
13,759.9				
(b) Contractual services	536.7	229.4	4,212.5	4,978.6
(c) Other	170.5	10.0	767.2	1,062.8
			2,010.5	

Performance measures:

(a) Output: Percent of groundwater discharge permitted facilities

receiving annual field inspections and compliance

evaluations 55%

(b) Outcome: Percent of permitted facilities where monitoring results

demonstrate compliance with groundwater standards 72%

(c) Outcome: Percent of underground storage tank facilities in

significant operational compliance with release prevention

and release detection requirements of the petroleum storage

tanks regulations 75%

(3) Environmental protection:

The purpose of the environmental protection program is to regulate medical radiation and radiological technologist certification, provide public outreach about radon in homes and public buildings, ensure solid waste is handled and disposed without harming natural resources, ensure New Mexicans breathe healthy air and ensure every employee has safe and healthful working conditions.

Appropriations:

(a) Personal services and

employee benefits	1,594.6	69.9	8,116.8	1,944.7
11,726.0				

(b) Contractual services 81.9 670.9 870.5 1,623.3

(c) Other 275.0 1,170.2 868.7 2,313.9

Performance measures:

(a) Outcome: Percent of permitted active solid waste facilities and infectious waste generators inspected that were found to be in substantial compliance with the New Mexico solid waste rules 85%

(b) Output: Percent of radiation-producing machine inspections completed within the timeframes identified in radiation control bureau policies 100%

(4) Resource management:

The purpose of the resource management program is to provide overall leadership, administrative, legal and information management support to programs to operate in the most knowledgeable, efficient and cost-effective manner so the public can receive the information it needs to hold the department accountable.

Appropriations:

(a)	Personal services and					
	employee benefits	2,508.5	33.1	2,309.2	1,881.4	
		6,732.2				
(b)	Contractual services	318.4	60.7	289.7	478.5	1,147.3
(c)	Other	268.5	3.2	299.0	341.9	912.6

Performance measures:

(a) Output: Percent of enforcement actions brought within one year of inspection or documentation of violation 96%

(5) Special revenue funds:

Appropriations:

(a)	Contractual services		3,500.0		3,500.0
(b)	Other	15,233.9		15,233.9	
(c)	Other financing uses		31,782.9		31,782.9

Subtotal 120,018.0

OFFICE OF THE NATURAL RESOURCES TRUSTEE:

(1) Natural resource damage assessment and restoration:

The purpose of the natural resource damage assessment and restoration 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	228.8	41.1		269.9
(b) Contractual services	7.9		1,984.3	1,992.2
(c) Other	41.0		41.0	

Performance measures:

(a) Outcome: Number of acres of habitat restoration	975
(b) Outcome: Number of acre-feet of water conserved through restoration	1,072

Subtotal 2,303.1

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	2,149.1		224.3	2,373.4
(b) Contractual services	920.1		11.5	931.6
(c) Other	360.8	99.9	78.8	539.5

Subtotal 3,844.5

CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

(1) Juvenile justice facilities:

The purpose of the juvenile justice facilities program is to provide rehabilitative services to youth committed to the department, including medical, educational, mental health and other services that will support their rehabilitation.

Appropriations:

(a)	Personal services and						
	employee benefits	54,016.5	2,241.3	261.0	48.4	56,567.2	
(b)	Contractual services	10,300.1		123.9	482.5	10,906.5	
(c)	Other	5,912.2	26.0	290.6	42.4	6,271.2	

The general fund appropriation to the juvenile justice facilities program of the children, youth and families department in the contractual services category includes an additional seventy-five thousand dollars (\$75,000) for the juvenile justice continuum.

Performance measures:

- (a) Outcome: Turnover rate for youth care specialists 14%
- (b) Outcome: Percent of clients who successfully complete formal probation 70%
- (c) Outcome: Percent of incidents in juvenile justice facilities requiring use of force resulting in injury 1.5%
- (d) Outcome: Percent of clients recommitted to a children, youth and families department facility within two years of discharge from facilities 9%
- (e) Outcome: Percent of program clients age eighteen and older who enter adult corrections within two years after discharge from a juvenile justice facility 6%
- (f) Output: Number of physical assaults in juvenile justice facilities <250

(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	44,333.9	455.4	10,337.5	55,126.8	
(b)	Contractual services	14,031.4	901.8	900.0	9,192.2	
		25,025.4				
(c)	Other	25,614.1	1,950.0	744.6	31,257.3	59,566.0
(d)	Other financing uses				2,738.5	2,738.5

The internal service funds/interagency transfers appropriation to the protective services program of the children, youth and families department in the contractual services category includes nine hundred thousand dollars (\$900,000) from the temporary assistance for needy families block grant for supportive housing.

The general fund appropriation to the protective services program of the children, youth and families department in the contractual services category includes an additional fifty thousand dollars (\$50,000) for supportive housing and behavioral health services for pregnant and parenting teens [in ~~Lea~~ ~~county~~] and an additional fifty thousand dollars (\$50,000) for temporary care and housing of animals of victims of domestic violence. *LINE-ITEM VETO*

Performance measures:

- (a) Outcome: Percent of adult victims or survivors receiving domestic violence services who have an individualized safety plan 94%
- (b) Output: Turnover rate for protective service workers 20%
- (c) Outcome: Percent of children who are not the subject of substantiated maltreatment within six months of a prior determination of substantiated maltreatment 93%
- (d) Output: Percent of children who are not the subject of substantiated maltreatment while in foster care 99.7%

(3) Early childhood services:

The purpose of the early childhood services program is to provide quality child care, nutrition services, early childhood education and training to enhance the physical, social and emotional growth and development of children.

Appropriations:

(a)	Personal services and			
	employee benefits	3,613.9	4,800.2	8,414.1
(b)	Contractual services	23,662.5	28,731.6	8,600.2
	60,994.3			
(c)	Other	31,024.4	30,691.9	78,969.0
				140,685.3

The general fund appropriation to the early childhood services program of the children, youth and families department in the contractual services category includes an additional fifty thousand dollars (\$50,000) for home visiting services ~~[in northern New Mexico]~~, an additional three hundred thousand dollars (\$300,000) for statewide childcare teacher education, retention and compensation and one hundred thousand dollars (\$100,000) for early literacy programs. *LINE-ITEM VETO*

The internal service funds/interagency transfers appropriations to the early childhood services program of the children, youth and families department include forty-eight million six hundred twenty-seven thousand five hundred dollars (\$48,627,500) from the federal temporary assistance for needy families block grant, including thirty million five hundred twenty-seven thousand five hundred dollars (\$30,527,500) for childcare, thirteen million six hundred thousand dollars (\$13,600,000) for pre-kindergarten and four million five hundred thousand dollars (\$4,500,000) for home visiting.

Notwithstanding the provisions of Article 23 of Chapter 32A NMSA 1978 or other substantive law, the appropriations in the contractual services category of the early childhood services program of the children, youth and families department include three million three hundred thousand dollars (\$3,300,000) to pilot pre-kindergarten for three-year-olds.

The federal funds appropriation to the early childhood services program of the children, youth and families department in the other category includes two hundred thousand dollars (\$200,000) for books and learning resources for regional education cooperatives to loan to early childcare assistance programs.

Performance measures:

(a) Outcome: Percent of children receiving state subsidy in stars/aim

high programs level three through five or with national accreditation 40%

(b) Outcome: Percent of licensed childcare providers participating in

stars/aim high levels three through five or with national

accreditations 32%

(c) Outcome: Percent of children in state-funded pre-kindergarten showing measurable progress on the preschool readiness kindergarten tool 92%

(d) Outcome: Percent of infants on schedule to be fully immunized by age two 85%

(e) Outcome: Percent of parents who demonstrate progress in practicing positive parent-child interactions 30%

(f) Outcome: Percent of licensed childcare providers participating in focus, levels three through five 15%

(g) Outcome: Percent of children receiving state subsidy in focus, levels three through five 10%

(4) Program support:

The purpose of program support is to provide the direct services divisions with functional and administrative support so they may provide client services consistent with the department's mission and also to support the development and professionalism of employees.

Appropriations:

(a)	Personal services and employee benefits	9,476.7	3,403.1	12,879.8	
(b)	Contractual services	1,512.0	71.5	287.4	1,870.9
(c)	Other	3,002.2	2,054.7	5,056.9	

Performance measures:

(a) Efficiency: Average number of days to fill positions from the advertisement close date to candidate start date 65

(5) 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	2,074.9	285.7	2,360.6
(b)	Contractual services	11,585.4	426.3	12,011.7
(c)	Other	508.4	508.4	
	Subtotal		460,983.6	
TOTAL HEALTH, HOSPITALS AND HUMAN		1,658,541.3	331,247.6	315,913.2
		5,735,134.0	8,040,836.1	

SERVICES

G. PUBLIC SAFETY

DEPARTMENT OF MILITARY AFFAIRS:

(1) National guard support:

The purpose of the national guard support program is to provide administrative, fiscal, personnel, facility construction and maintenance support to the New Mexico national guard in maintaining a high degree of readiness to respond to state and federal missions and to supply an experienced force to protect the public, provide direction for youth and improve the quality of life for New Mexicans.

Appropriations:

(a)	Personal services and			
	employee benefits	3,321.9	5,482.8	8,804.7
(b)	Contractual services	526.1	3,298.1	3,824.2
(c)	Other	3,467.1	101.6 120.0	6,233.0
			9,921.7	

The general fund appropriation to the department of military affairs in the other category includes one hundred thousand dollars (\$100,000) to educate the people of New Mexico about the missions of the nuclear-powered submarines USS New Mexico and USS Santa Fe, to sponsor visits of the submarine crews to New Mexico, to recognize the top sailors of the submarine crews and to recognize the retirement of the submarine USS Albuquerque.

Performance measures:

(a) Outcome: Rate of attrition of the New Mexico army national guard 14%

(b) Output: Number of New Mexico youth challenge academy cadets who
earn their high school equivalency annually 105

Subtotal 22,550.6

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 340.9 340.9

(b) Contractual services 7.8 7.8

(c) Other 141.9 141.9

Performance measures:

(a) Efficiency: Percent of revocation hearings held within thirty days of a
parolee's return to the corrections department 95%

Subtotal 490.6

JUVENILE PUBLIC SAFETY ADVISORY BOARD:

The purpose of the juvenile public safety advisory board is to monitor each youth's rehabilitative process through therapy and support services to assure a low risk for reoffending or re-victimizing the community.

Appropriations:

(a) Contractual services 4.9 4.9

(b) Other 10.1 10.1

Subtotal 15.0

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	93,740.7	12,416.3	116.5	106,273.5
(b)	Contractual services	45,864.8			45,864.8
(c)	Other	105,929.9	982.8	116.6	107,029.3

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 general equivalency diploma 75%
- (c) Outcome: Percent of prisoners reincarcerated within thirty-six months due to new charges or pending charges 20%
- (d) Outcome: Percent of residential drug abuse program graduates reincarcerated within thirty-six months of release 15%
- (e) Output: Number of inmate-on-inmate assaults with serious injury 10
- (f) Output: Number of inmate-on-staff assaults with serious injury 4
- (g) Outcome: Percent of standard healthcare requirements met by medical contract vendor 100%
- (h) Outcome: Percent of inmates pre-enrolled in Medicaid at the time of release 95%

(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	1,573.7	1,573.7
(b)	Contractual services	735.9	735.9
(c)	Other	9,556.4	9,556.4

(3) Community offender management:

The purpose of the community offender management program is to provide programming and supervision to offenders on probation and parole, with emphasis on high-risk offenders, to better ensure the probability of them becoming law-abiding citizens, to protect the public from undue risk and to provide intermediate sanctions and post-incarceration support services as a cost-effective alternative to incarceration.

Appropriations:

(a)	Personal services and			
	employee benefits	18,812.7	1,074.8	19,887.5
(b)	Contractual services	146.1		146.1
(c)	Other	12,489.4	1,575.7	14,065.1

The general fund appropriation to the community offender management program of the corrections department in the other category includes an additional four hundred thousand dollars (\$400,000) to expand transitional living services for women.

Performance measures:

- (a) Outcome: Percent of out-of-office contacts per month with offenders
on high and extreme supervision on standard caseloads 92%
- (b) Quality: Average standard caseload per probation and parole officer 95
- (c) Output: Percent of male offenders who graduated from the men's

recovery center and are reincarcerated within thirty-six
 months 25%

(4) Program support:

The purpose of program support is to provide quality administrative support and oversight to the department operating units to ensure a clean audit, effective budget, personnel management and cost-effective management information system services.

Appropriations:

(a)	Personal services and employee benefits	10,402.7	16.8	10,419.5
(b)	Contractual services	871.1	61.0	932.1
(c)	Other	1,727.8	384.2 256.1	2,368.1

Performance measures:

- (a) Outcome: Percent turnover of probation and parole officers 10%
- (b) Outcome: Percent turnover of correctional officers in public facilities 10%

Subtotal 318,852.0

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	1,028.5	1,028.5
(b)	Contractual services	214.8	214.8
(c)	Other	1,280.1	587.2 1,867.3

The general fund appropriation to the victim compensation program of the crime victims reparation commission in the other category includes one hundred twenty-five thousand dollars (\$125,000) for support, advocacy and services for victims [of human trafficking]. *LINE-ITEM VETO*

Performance measures:

(a) Efficiency: Average number of days to process applications <100

(b) Outcome: Percent of victims receiving direct advocacy 90%

(2) Federal grant administration:

The purpose of the federal grant administration program is to provide funding and training to nonprofit providers and public agencies so they can provide services to victims of crime.

Appropriations:

(a)	Personal services and employee benefits	258.7	258.7
(b)	Contractual services	25.0	25.0
(c)	Other	5,013.3	5,013.3

Performance measures:

(a) Efficiency: Percent of sub-grantees that receive compliance monitoring
via desk audits 85%

(b) Efficiency: Percent of site visits conducted 50%

(c) Outcome: Percent of monitored sub-grantees in compliance with grants
rules to provide effective services to victims of crime 95%

Subtotal 8,407.6

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	76,964.1	908.0	4,199.1	4,080.6
		86,151.8			
(b)	Contractual services	1,533.5	50.0	414.2	1,398.0
		3,395.7			
(c)	Other	20,728.7	4,545.5	808.6	1,289.8
					27,372.6
(d)	Other financing uses			3,285.0	3,285.0

The general fund appropriation to the law enforcement program of the department of public safety in the personal services and employee benefits category includes three million two hundred twenty-five thousand dollars (\$3,225,000) for an average five percent salary increase for all department of public safety officers.

The internal service funds/interagency transfers appropriations to the law enforcement program of the department of public safety include one million two hundred sixty-five thousand nine hundred dollars (\$1,265,900) from the weight distance tax identification permit fund.

Any unexpended balances in the law enforcement program of the department of public safety remaining at the end of fiscal year 2016 from appropriations made from the weight distance tax identification permit fund shall revert to the weight distance tax identification permit fund.

Performance measures:

- (a) Output: Number of licensed alcohol premises inspections conducted
per agent assigned to alcohol enforcement duties 350
- (b) Output: Number of traffic-related enforcement projects held 1,700
- (c) Output: Number of driving-while-intoxicated checkpoints and
saturation patrols conducted 1,175
- (d) Output: Number of criminal investigations conducted by agents
assigned to criminal investigative and impact positions in
the investigations bureau 15
- (e) Output: Number of drug-related investigations conducted per agent
assigned to narcotics investigative positions in the
investigations bureau 12

- (f) Outcome: Number of data-driven crime and traffic initiatives
conducted 750
- (g) Output: Number of commercial motor vehicle citations issued per
filled full-time-equivalent assigned to enforcement duties 522
- (h) Output: Number of commercial motor vehicle safety inspections
conducted per filled full-time-equivalent position assigned
to inspection duties 397
- (i) Output: Number of noncommercial motor vehicle citations issued per
filled full-time-equivalent position assigned to
enforcement duties 175
- (j) Output: Number of out-of-service commercial motor vehicle citations
issued per filled full-time-equivalent position assigned to
enforcement duties 100

(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	8,086.3	1,773.3	597.6	10,457.2
(b)	Contractual services	2,848.1	1,512.1	1,066.0	270.0
(c)	Other	2,075.4	2,885.7	450.7	5,411.8
(d)	Other financing uses			3,625.0	3,625.0

Performance measures:

- (a) Outcome: Percent of forensic biology and deoxyribonucleic acid (DNA) cases completed per filled full-time-equivalent position within thirty working days 50%
- (b) Outcome: Percent of forensic latent fingerprint cases completed per filled full-time-equivalent position within thirty working days 50%
- (c) Outcome: Percent of forensic firearm or toolmark cases completed per filled full-time-equivalent position within thirty working days 50%

(3) Program support:

The purpose of program support is to manage the agency's financial resources, assist in attracting and retaining a quality workforce and provide sound legal advice and a clean, pleasant working environment.

Appropriations:

(a)	Personal services and employee benefits	3,859.1	98.6	487.4	4,445.1
(b)	Contractual services	125.3	5.0		130.3
(c)	Other	1,024.0	6.6	2,857.5	3,888.1
	Subtotal		151,010.7		

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT:

(1) Homeland security and emergency management program:

The purpose of the homeland security and emergency management program is to provide for and coordinate an integrated, statewide, comprehensive emergency management system for New Mexico, including all agencies, branches and levels of government for the citizens of New Mexico.

Appropriations:

- (a) Personal services and

	employee benefits	1,731.8	88.6	3,090.0	4,910.4
(b)	Contractual services	36.6		1,274.4	1,311.0
(c)	Other	754.6	110.0	66.2	35,266.0
					36,196.8

Performance measures:

(a) Output: Percent completion of semi-annual monitoring of disaster grant applications 75%

Subtotal 42,418.2

TOTAL PUBLIC SAFETY 418,760.8 40,404.9 13,206.1 71,372.9
543,744.7

H. TRANSPORTATION

DEPARTMENT OF TRANSPORTATION:

(1) Programs and infrastructure:

The purpose of the programs and infrastructure program is to provide improvements and additions to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to highway planning, design and construction necessary for a complete system of highways in the state.

Appropriations:

(a)	Personal services and				
	employee benefits	22,979.3	4,441.7		27,421.0
(b)	Contractual services	84,753.8		265,552.7	
		350,306.5			
(c)	Other	74,711.7	135,618.0	210,329.7	

Notwithstanding the provisions of Paragraph (1) of Subsection B of Section 6-21-6.8 NMSA 1978 or other substantive law, any funds received by the New Mexico finance authority from the department of transportation in fiscal year 2016 as an annual administrative fee for issuing state transportation bonds pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978 shall not be deposited into the local transportation infrastructure fund.

The other state funds appropriations to the programs and infrastructure program of the department of transportation include six million six hundred thousand dollars (\$6,600,000) for maintenance, reconstruction and related construction costs of state-managed highways.

Performance measures:

- (a) Outcome: Number of traffic fatalities <345
- (b) Outcome: Number of alcohol-related traffic fatalities <130
- (c) Outcome: Percent of projects in production let as scheduled >75%
- (d) Outcome: Percent of bridges in fair condition or better, based on deck area >85%
- (e) Outcome: Percent of projects completed according to schedule >80%

(2) Transportation and highway operations:

The purpose of the transportation and highway operations program is to maintain and provide improvements to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to preserving roadway integrity and maintaining open highway access throughout the state system.

Appropriations:

(a)	Personal services and employee benefits	101,252.6	3,000.0	104,252.6
(b)	Contractual services	50,544.6		50,544.6
(c)	Other	79,310.7	79,310.7	

Performance measures:

- (a) Output: Number of statewide pavement preservation lane miles >2,750
- (b) Outcome: Percent of non-interstate lane miles rated good >70%
- (c) Outcome: Number of combined systemwide miles in deficient condition <8,000

(3) Program support:

The purpose of program support is to provide management and administration of financial and human resources, custody and maintenance of information and property and management of construction and maintenance projects.

Appropriations:

(a)	Personal services and employee benefits	25,857.4	25,857.4
(b)	Contractual services	4,492.2	4,492.2
(c)	Other	12,609.2	12,609.2

Performance measures:

- (a) Quality: Number of external audit findings <5
- (b) Outcome: Vacancy rate in all programs <11%
- (c) Output: Number of employee injuries <90

Subtotal 865,123.9

TOTAL TRANSPORTATION 456,511.5 408,612.4 865,123.9

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	9,912.4	2,586.7	36.0	6,963.9
		19,499.0			
(b)	Contractual services	1,197.2	1,022.7		18,238.5
		20,458.4			
(c)	Other	859.6	576.3	2,792.1	4,228.0

Performance measures:

- (a) Explanatory: Number of eligible children served in state-funded
pre-kindergarten TBD

(b) Outcome: Average number of days to process a request for proposal,
from date of receipt 60

(c) Output: Number of local education agencies audited for funding
formula components and program compliance annually 35

Subtotal 44,185.4

REGIONAL EDUCATION COOPERATIVES:

Appropriations:

(a) Northwest:	768.4	768.4	
(b) Northeast:	422.0	1,304.0	1,726.0
(c) Lea county:	550.0	523.4	1,073.4
(d) Pecos valley:	1,050.0	200.0	1,250.0
(e) Southwest:	51.1	51.1	
(f) Central:	3,992.0	1,082.0	5,074.0
(g) High plains:	2,431.0	300.0	2,731.0
(h) Clovis:	308.6	520.1	828.7
(i) Ruidoso:	3,820.0	1,150.0	4,970.0
Subtotal		18,472.6	

PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS:

Appropriations:

(a) Teachers pursuing excellence	1,000.0	1,000.0
2,000.0		
(b) Breakfast for elementary		
students	1,924.6	1,924.6
(c) After-school and summer		

	enrichment programs	350.0	750.8	1,100.8
(d)	Regional education			
	cooperatives operations	935.6		935.6
(e)	Public pre-kindergarten			
	fund	21,000.0	3,500.0	24,500.0
(f)	Graduation, reality and			
	dual-role skills program	200.0		200.0
(g)	New Mexico cyber academy	250.0	250.0	500.0
(h)	New Mexico grown fresh			
	fruits and vegetables	364.3		364.3
(i)	K-3 plus fund	23,700.0		23,700.0
(j)	Advanced placement	875.0		875.0
(k)	Early reading initiative	15,000.0		15,000.0
(l)	Teaching support for			
	low-income students	500.0		500.0
(m)	Science, technology,			
	engineering and math			
	initiative	2,400.0		2,400.0
(n)	Black student union in			
	[Albuquerque] public schools	30.0	<i>LINE-ITEM VETO</i>	
30.0				
(o)	Teacher and school leader			
	preparation	4,145.5		4,145.5
(p)	Teacher and administrator			

	evaluation system	5,000.0		5,000.0
(q)	Parent portal	1,196.7		1,196.7
(r)	Teacher and school leader programs and supports for training, preparation, recruitment and retention	7,250.0	1,750.0	
		9,000.0		
(s)	College preparation, career readiness and dropout prevention	2,901.0		2,901.0
(t)	Interventions and support for students, struggling schools and parents	10,500.0	2,000.0	12,500.0
(u)	Stipends for teachers in hard-to-staff areas	1,500.0		1,500.0

Notwithstanding the provisions of Section 22-8-44 NMSA 1978 or other substantive law, the other state funds appropriation in Subparagraph (a) to the public education department for teachers pursuing excellence is from the educator licensure fund.

Notwithstanding the provisions of Section 22-13-13.2 NMSA 1978 or other substantive law, for the 2015-2016 school year, a school district or charter school required to provide breakfast to elementary students pursuant to Section 23-13-13.2 NMSA 1978 or receiving a distribution from the appropriation in Subparagraph (b) may provide breakfast before the instructional day begins.

Notwithstanding the provisions of Sections 22-2C-10, 22-15A-12, 22-8-45 and 22-2C-9 NMSA 1978 or other substantive law, the other state funds appropriation in Subparagraph (c) to the public education department for after school and summer enrichment programs includes one hundred thirteen thousand nineteen dollars (\$113,019) from the schools in need of improvement fund, sixty-four thousand two hundred eighty-seven dollars (\$64,287) from the educational technology deficiency correction fund, five hundred six thousand six hundred thirty-five dollars (\$506,635) from the teacher professional development fund and sixty-six thousand eight hundred sixty-five dollars (\$66,865) from the incentives for school improvement fund.

The internal service funds/interagency transfers appropriation in Subparagraph (e) to the public pre-kindergarten fund of the public education department is from the federal temporary assistance for needy families block grant.

Notwithstanding the provisions of Article 23 of Chapter 32A NMSA 1978 or other substantive law, the appropriations in Subparagraph (e) to the public pre-kindergarten fund of the public education department include sufficient funding to continue the established extended-day pre-kindergarten pilot program during the 2015-2016 school year.

Notwithstanding the provisions of Section 22-8-29.6 NMSA 1978 or other substantive law, the other state funds appropriation in Subparagraph (g) to the public education department for the New Mexico cyber academy is from the transportation emergency fund.

In setting the reimbursement amount for the summer 2015 k-3 plus program, the secretary of public education shall use the final unit value set for the 2014-2015 school year as the basis for funding June, July and August 2015 k-3 plus programs.

Notwithstanding the provisions of Sections 22-13-28 and 22-13-28.1 NMSA 1978 or other substantive law, the public education department may make 2015 k-3 plus awards to any school that received a k-3 plus award for the 2014 program that no longer qualifies because it received a school grade of A, B or C during the 2013-2014 or 2014-2015 school years and may make k-3 plus awards to schools or school districts that implement a year-round instructional calendar to provide k-3 plus over five non-continuous weeks in blocks of no less than five continuous instructional days during the 2015-2016 school year.

The general fund appropriation in Subparagraph (l) to the public education department for teaching support for low-income students is for a nonprofit organization with ~~[the primary purpose of recruiting recent college graduates and professionals who have]~~ a record of demonstrated achievement to teach in low-income urban and rural public schools to provide teaching support in schools with at least sixty percent of the enrolled students eligible for free or reduced-fee lunch, with a priority for schools with eighty-five percent or more of the enrolled students eligible for free or reduced-fee lunch. *LINE-ITEM VETO*

The general fund appropriation in Subparagraph (o) to the public education department for teacher and school leader preparation includes one million dollars (\$1,000,000) to be allocated to two or more New Mexico universities for a collaborative school principal ~~[turnaround]~~ leadership program involving one or more colleges of education and one or more business colleges. *LINE-ITEM VETO*

Except for money in the appropriations in Subparagraphs (r) through (t) that is for use by the public education department to provide services or support, the appropriations in Subparagraphs (r) through (t) are contingent on the appropriations being distributed by the department to school districts and charter schools based on proposals submitted by school districts and charter schools and approved by the department.

The appropriations in Subparagraph (r) are contingent on the public education department using the appropriations for the following: (1) teacher and school leader preparation programs; and (2) supports for teacher and school administrator training, preparation, recruitment and retention. School districts with established collective bargaining units may use the appropriations in any compensation initiative implemented by the department, subject to collective bargaining. School districts that do not have established collective bargaining units shall not be required to collectively bargain in order to participate in any compensation initiative implemented by the department with these appropriations. Awards made for any individual initiative pursuant to these appropriations shall not exceed seventy-five percent of the total appropriations.

Notwithstanding the provisions of Sections 22-2D-5, 22-15-8.2, 22-15C-3 and 22-8-29.6 NMSA 1978 or other substantive law, the other state funds appropriation in Subparagraph (r) to the public education department for teacher and school leader programs and supports for training, preparation, recruitment and retention includes five hundred fifty-six thousand seven hundred seventy-two dollars (\$556,772) from the family and youth resource fund, one hundred fifty-five thousand five hundred sixty-four dollars (\$155,564) from the reading materials fund, one hundred twenty-five thousand two hundred nine dollars (\$125,209) from the school library material fund and nine hundred twelve thousand four hundred fifty-five dollars (\$912,455) from the transportation emergency fund.

Notwithstanding the provisions of Section 22-8-44 NMSA 1978 or other substantive law, the other state funds appropriation in Subparagraph (t) to the public education department for interventions and support for students, struggling schools and parents is from the educator licensure fund.

Any unexpended balances in the special appropriations to the public education department remaining at the end of fiscal year 2016 from appropriations made from the general fund shall revert to the general fund.

Subtotal		110,273.5
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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 to ensure correct and prudent planning, building and maintenance using state funds to ensure adequacy of all facilities in accordance with public education department approved educational programs.

Appropriations:

(a)	Personal services and				
	employee benefits	4,760.2		4,760.2	
(b)	Contractual services	171.2		171.2	
(c)	Other	1,212.4	1,212.4		

Performance measures:

- (a) Outcome: Percent of projects meeting all contingencies completed within the specified period of awards 95%
- (b) Explanatory: Statewide public school facility maintenance assessment report score measured at December 31 of prior calendar year 70.1%
- (c) Explanatory: Statewide public school facility condition index measured at December 31 of prior calendar year 35%

Subtotal		6,143.8		
TOTAL OTHER EDUCATION	112,991.9	29,473.4	3,536.0	33,074.0
	179,075.3			

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 section, with the exception of the policy development and institutional financial oversight program of the higher education department, whose other state funds exceed amounts specified. In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the justification for the approval.

Except as otherwise provided, any unexpended balances remaining at the end of fiscal year 2016 shall not revert to the general fund.

HIGHER EDUCATION DEPARTMENT:

(1) Policy development and institutional financial oversight:

The purpose of the policy development and institutional financial oversight program is to provide a continuous process of statewide planning and oversight within the department's statutory authority for the state higher education system and to ensure both the efficient use of state resources and progress in implementing a statewide agenda.

Appropriations:

(a)	Personal services and				
	employee benefits	2,442.1	443.6	1,133.7	4,019.4
(b)	Contractual services	289.2	16.4	452.6	758.2
(c)	Other	9,273.1	180.4	277.3	7,878.2
					17,609.0
(d)	Other financing uses		18.6		18.6

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes five million six hundred seventy-eight thousand seven hundred dollars (\$5,678,700) to provide adult education services, including materials and access to high school equivalency tests to adults and one hundred fifty thousand dollars (\$150,000) for workforce development programs at community colleges that primarily educate and retrain recently displaced workers.

Any unexpended balances in the policy development and institutional financial oversight program of the higher education department remaining at the end of fiscal year 2016 from appropriations made from the general fund shall revert to the general fund.

Notwithstanding the provisions of Article 23A of Chapter 22 NMSA 1978 or other substantive law, the other state funds appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes fifty thousand dollars (\$50,000) to the tribal dual credit fund and one hundred thousand dollars (\$100,000) for an English language learner teacher preparation program from the Indian education fund.

Notwithstanding any restriction on the use of funds in Section 21-24-5 NMSA 1978 or other substantive law, the other state funds appropriation to the policy development and institutional financial oversight program of the higher education department in the personal services and employee benefits category includes an additional one hundred thousand dollars (\$100,000) from the postsecondary educational institution fund and seventy-five thousand dollars (\$75,000) from the program development enhancement fund. Any amount remaining in the program development enhancement fund greater than seventy-five thousand one dollars (\$75,001) at the end of fiscal year 2015 shall revert to the general fund.

~~[The higher education department shall submit a report and plan to the department of finance and administration and the legislative finance committee to address financial audit findings, including actions to administer, track and report expenditures of the legislative lottery scholarship program and all loan-for-service, loan repayment and tuition waiver programs.]~~ *LINE-ITEM VETO*

Performance measures:

(a) Outcome: Number of adult education students who earn the high school equivalency credential 1,900

(b) Output: Number of days the private and proprietary schools division completes a request for student transcript from date of receipt 3

(2) Student financial aid:

The purpose of the student financial aid program is to provide access, affordability and opportunities for success in higher education to students and their families so that all New Mexicans may benefit from postsecondary education and training beyond high school.

Appropriations:

(a)	Contractual services	53.4		53.4		
(b)	Other	24,281.0	24,088.4	40,000.0	250.0	88,619.4
(c)	Other financing uses			2,000.0		2,000.0

The general fund appropriation to the student financial aid program of the higher education department in the other category includes four hundred fifty thousand dollars (\$450,000) for a ~~[social worker]~~ loan repayment program contingent on enactment of House Bill 341 or similar legislation of the first session of the fifty-second legislature. *LINE-ITEM VETO*

Performance measures:

(a) Outcome: Percent of first-time freshman lottery recipients graduated

from college after the ninth semester 75%

(b) Outcome: Percent of students who received state loan-for-service

funding who provided service after graduation 92%

Subtotal

113,078.0

UNIVERSITY OF NEW MEXICO:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general

purposes	191,264.0	190,450.0	3,700.0	385,414.0
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(b) Other	168,950.0	141,250.0	310,200.0	
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(c) Athletics	2,852.2	29,450.0	32,302.2	
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(d) Educational television	8,877.3	1,177.3	7,700.0	
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Performance measures:

(a) Outcome: Percent of first-time, full-time, degree-seeking freshmen

completing an academic program within six years 48%

(b) Output: Total number of baccalaureate degrees 3,525

(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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	9,322.3	6,300.0	400.0	16,022.3
(b)	Other	1,700.0	300.0	2,000.0	
(c)	Nurse expansion	209.2		209.2	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 10%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 84%

(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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	1,886.0	1,900.0	600.0	4,386.0
(b)	Other	600.0	200.0	800.0	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete

the program within one hundred fifty percent of normal time
to completion 60%

- (b) Outcome: Percent of first-time, full-time, degree-seeking students
enrolled in a given fall term who persist to the following
spring term 79.5%

(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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	5,595.9	5,400.0	2,000.0	12,995.9
(b)	Other	1,800.0	700.0	2,500.0	
(c)	Nurse expansion	169.8		169.8	

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 10%
- (b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 80%

(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 that they

have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	3,544.9	3,900.0	700.0	8,144.9
(b)	Other	1,600.0	1,400.0	3,000.0	
(c)	Nurse expansion	243.9		243.9	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 20%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 80%

(6) Research and public service projects:

Appropriations:

[(a)	Civics leadership	50.0	50.0] <i>LINE-ITEM VETO</i>	
(b)	Athlete brain safe	175.0		175.0	
(c)	Judicial selection	23.0		23.0	
(d)	Southwest research center	1,137.0			1,137.0
(e)	Substance abuse program	138.2		138.2	
(f)	Resource geographic information system	66.3		66.3	

(g)	Southwest Indian law clinic	207.6	[100.0] <i>LINE-ITEM VETO</i>	307.6
(h)	Geospatial and population studies/bureau of business and economic research	384.7		384.7
(i)	New Mexico historical review	48.0	48.0	
(j)	Ibero-American education	90.6		90.6
(k)	Manufacturing engineering program	561.9	561.9	
(l)	Wildlife law education	96.4		96.4
(m)	Morrissey hall programs	47.6		47.6
(n)	Disabled student services	191.9		191.9
(o)	Minority student services	969.3	[150.0] <i>LINE-ITEM VETO</i>	1,119.3
(p)	Community-based education	568.6		568.6
(q)	Corrine Wolfe children's law center	171.9	171.9	
(r)	Utton transboundary resources center	346.3		346.3
(s)	Student mentoring program	292.3		292.3
(t)	Land grant studies	131.8		131.8
(u)	Small business innovation and research outreach program	84.4		84.4

(v) College degree mapping 75.0 75.0

[Notwithstanding the provisions of Article 23A of Chapter 22 NMSA 1978 or other substantive law, the other state funds appropriation to the minority student services program at the university of New Mexico includes an additional one hundred fifty thousand dollars (\$150,000) from the Indian education fund for American Indian student services at the Gallup and Taos campuses of the university of New Mexico.]

LINE-ITEM VETO

[Notwithstanding the provisions of Article 23A of Chapter 22 NMSA 1978 or other substantive law, the other state funds appropriation to the southwest Indian law clinic program at the university of New Mexico includes an additional one hundred thousand dollars (\$100,000) from the Indian education fund.]

LINE-ITEM VETO

(7) Health sciences center:

The purpose of the instruction and general program at the university of New Mexico health sciences center is to provide educational, clinical and research support for the advancement of health of all New Mexicans.

Appropriations:

(a) Instruction and general

purposes	62,331.6	51,800.0	3,900.0	118,031.6
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(b) Other	299,000.0	63,700.0	362,700.0	
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(8) Health sciences center research and public service projects:

Appropriations:

~~[(a) Pain management center 50.0 50.0]~~

LINE-ITEM VETO

(b) Native American suicide

prevention	99.7	200.0	299.7	
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(c) Office of medical

investigator	5,025.3	13,000.0	18,025.3	
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(d) Children's psychiatric

hospital	7,292.9	10,500.0	17,792.9	
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(e) Carrie Tingley hospital	5,327.6	13,100.0		
	18,427.6			

(f)	Newborn intensive care	3,350.2	2,100.0	
				5,450.2
(g)	Pediatric oncology	1,303.5	300.0	1,603.5
(h)	Internal medicine			
	residencies	1,068.5		1,068.5
(i)	Poison and drug information			
	center	1,554.7	590.2	2,144.9
(j)	Cancer center	2,691.2	5,200.0	12,900.0
				20,791.2
(k)	Genomics, biocomputing and			
	environmental health research		1,300.0	5,400.0
				6,700.0
(l)	Trauma specialty education		261.4	261.4
(m)	Pediatrics specialty			
	education	261.4	261.4	
(n)	Native American health			
	center	274.7	450.0 <i>LINE-ITEM VETO</i>	424.7
(o)	Hepatitis community health			
	outcomes	2,143.8		2,143.8
(p)	Nurse expansion	1,103.3		1,103.3
(q)	Graduate nurse education	1,650.7		1,650.7
(r)	Psychiatry residencies	403.4		403.4
(s)	General surgery/family			
	community medicine			
	residencies	335.5	335.5	

The other state funds appropriations to the university of New Mexico health sciences center include two million nine hundred sixty-two thousand one hundred dollars (\$2,962,100) from the tobacco settlement program fund.

~~[Notwithstanding the provisions of Article 23A of Chapter 22 NMSA 1978 or other substantive law, the other state funds appropriation to the Native American health center at the university of New Mexico's health sciences center includes one hundred fifty thousand dollars (\$150,000) from the Indian education fund.]~~ *LINE-ITEM VETO*

Notwithstanding the provisions of Article 23A of Chapter 22 NMSA 1978 or other substantive law, the other state funds appropriation to the Native American suicide prevention program at the university of New Mexico includes two hundred thousand dollars (\$200,000) from the Indian education fund for services ~~[in McKinley and San Juan counties]~~. *LINE-ITEM VETO*

Subtotal 1,373,042.9

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)	Instruction and general purposes	119,248.6	108,000.0	4,900.0	232,148.6
(b)	Other	77,600.0	100,800.0	178,400.0	
(c)	Athletics	3,397.4	10,200.0		13,597.4
(d)	Educational television	2,097.0	1,097.0	1,000.0	

Performance measures:

- (a) Outcome: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 47%
- (b) Output: Total number of baccalaureate degrees awarded 2,650

(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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	7,816.7	4,500.0	1,700.0	14,016.7
(b)	Other	700.0	3,500.0	4,200.0	

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 14%

(3) Carlsbad branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	4,240.4	8,600.0	600.0	13,440.4
(b)	Other	600.0	1,500.0	2,100.0	
(c)	Carlsbad manufacturing sector development program		236.1		236.1
(d)	Nurse expansion	118.7		118.7	

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who
complete the program within one hundred fifty percent of
normal time to completion 10%

(b) Outcome: Percent of first-time, full-time, degree-seeking students
enrolled in a given fall term who persist to the following
spring term 70%

(4) Dona Ana branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	23,356.4	15,000.0	1,200.0	39,556.4
(b)	Other	3,300.0	17,700.0	21,000.0	
(c)	Dental hygiene program	224.4		224.4	
(d)	Nurse expansion	210.9		210.9	

Performance measures:

(a) Outcome: Percent of first-time, full-time, degree-seeking students
enrolled in a given fall term who persist to the following
spring term 81%

(5) Grants branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	3,672.1	1,500.0	1,200.0	6,372.1
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(b)	Other	400.0	1,700.0	2,100.0	
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Performance measures:

(a) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 74%

(6) Department of agriculture:

Appropriations:	11,539.9	4,800.0	1,700.0	18,039.9
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The general fund appropriation to the New Mexico department of agriculture at New Mexico state university includes an additional thirty thousand dollars (\$30,000) to expand the program that provides locally grown produce for school lunch programs in ~~[north-central and south-central]~~ New Mexico in areas with farmer training. *LINE-ITEM VETO*

(7) Agricultural experiment station:

Appropriations:	14,925.5	4,700.0	9,200.0	28,825.5
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The general fund appropriation to the agricultural experiment station at New Mexico state university includes two hundred thousand dollars (\$200,000) to provide staff services at the Alcalde agricultural experiment station for the Los Luceros ranch pursuant to an agreement with the cultural affairs department.

(8) Cooperative extension service:

Appropriations:	13,612.6	5,000.0	8,100.0	26,712.6
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(9) Research and public service projects:

Appropriations:

(a)	Science, technology, engineering and mathematics alliance for minority participation	329.5	600.0	929.5
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(b)	Water resources research			
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	institute	619.3	600.0	900.0	2,119.3
(c)	Indian resources development			299.1	299.1
(d)	Manufacturing sector				
	development program		551.3		551.3
(e)	Arrowhead center for				
	business development	338.2	300.0	600.0	1,238.2
(f)	Nurse expansion	763.1			763.1
(g)	Mental health nurse				
	practitioner	701.7		701.7	
(h)	Economic development				
	doctorate	99.7		99.7	
(i)	Space consortium and				
	outreach program			800.0	800.0
(j)	Alliance teaching and				
	learning advancement	151.1			151.1
(k)	College assistance migrant				
	program	217.8		500.0	717.8
[(l)	Science, technology,				
	engineering and mathematics	65.0			65.0]
	<i>LINE-ITEM VETO</i>				
(m)	Clean drinking water				
	technology	100.0			100.0

The general fund appropriation to the mental health nurse practitioner program at New Mexico state university includes three hundred thousand dollars (\$300,000) to support an additional cohort of psychiatric and mental health nurse practitioners.

Notwithstanding any restriction on the use of funds in Section 74-6B-7 NMSA 1978 or other substantive law, the other state funds appropriation to the water resources research institute program of the New Mexico state university includes five hundred thousand dollars (\$500,000) from the consumer settlement fund of the office of the attorney general.

Subtotal 611,932.5

NEW MEXICO HIGHLANDS UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	28,382.5	12,700.0	400.0	41,482.5
(b)	Other	13,200.0	9,300.0		22,500.0
(c)	Athletics	2,145.4	500.0		2,645.4

Performance measures:

- (a) Output: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 20%
- (b) Output: Total number of baccalaureate degrees awarded 400

(2) Research and public service projects:

Appropriations:

(a)	Minority student services	560.6		560.6
(b)	Advanced placement	281.4		281.4
(c)	Forest and watershed institute	315.8	315.8	

~~[(d) Oil and gas management~~

program 100.0 100.0]

LINE-ITEM VETO

(e) Nurse expansion 65.9 65.9

Subtotal 67,951.6

WESTERN NEW MEXICO UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general

purposes 17,345.6 13,500.0 200.0 31,045.6

(b) Other 6,500.0 6,900.0 13,400.0

(c) Athletics 1,898.5 500.0 2,398.5

Performance measures:

(a) Output: Total number of baccalaureate degrees awarded 200

(b) Output: Percent of full-time, degree-seeking, first-time freshmen

completing an academic program within six years 23%

(2) Research and public service projects:

Appropriations:

(a) Child development center 211.1 211.1

(b) Instructional television 78.2 78.2

(c) Web-based teacher licensure 141.0 141.0

(d) Nurse expansion 881.9 881.9

(e) Pharmacy and phlebotomy programs	124.7	124.7
Subtotal		48,281.0

EASTERN NEW MEXICO UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general purposes	27,806.5	17,500.0	3,000.0	48,306.5
(b) Other	14,600.0	26,900.0	41,500.0	
(c) Athletics	2,144.1	1,400.0	3,544.1	
(d) Educational television	2,512.6	1,112.6	1,200.0	200.0

Performance measures:

- (a) Output: Total number of baccalaureate degrees awarded 675
- (b) Output: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 30%

(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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	12,042.0	6,400.0	700.0	19,142.0
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(b)	Other	3,600.0	8,300.0	11,900.0
(c)	Airframe mechanics	60.2		60.2
(d)	Nurse expansion	74.6		74.6
(e)	Special services program expansion	61.7	61.7	

Performance measures:

- (a) Outcome: Percent of students who complete a program within one hundred fifty percent of time 17.5%
- (b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 76.2%

(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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	2,122.4	2,000.0	300.0	4,422.4
(b)	Other	600.0	1,800.0	2,400.0	

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 20%

(4) Research and public service projects:

Appropriations:

~~[(a) Boys and girls state 50.0 50.0]~~

LINE-ITEM VETO

(b) Youth robotic competition 224.7 224.7

(c) Blackwater draw site and
museum 95.7 95.7

(d) Student success programs 454.5 454.5

(e) Nurse expansion 357.4 357.4

(f) At-risk student tutoring 244.8 244.8

(g) Allied health 155.2 155.2

~~[(h) Career and technical
education programs 25.0 25.0]~~

LINE-ITEM VETO

Subtotal 135,531.4

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 work force, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general
purposes 27,789.0 21,900.0 49,689.0

(b) Other 16,700.0 18,100.0 34,800.0

(c) Athletics 209.0 209.0

Performance measures:

(a) Output: Percent of full-time, degree-seeking, first-time freshmen
completing an academic program within six years 48%

(b) Output: Total number of degrees awarded 325

(2) Bureau of mine safety:

Appropriations: 340.1 340.1

(3) Bureau of geology and mineral resources:

Appropriations: 4,237.7 500.0 400.0 5,137.7

The general fund appropriation to the bureau of geology and mineral resources of the New Mexico institute of mining and technology includes one hundred thousand dollars (\$100,000) from federal Mineral Leasing Act receipts.

(4) Petroleum recovery research center:

Appropriations: 2,006.5 1,300.0 3,500.0 6,806.5

(5) Geophysical research center:

Appropriations: 1,169.6 2,400.0 6,900.0 10,469.6

(6) Research and public service projects:

Appropriations:

(a) Energetic materials research

center 850.8 6,400.0 37,100.0 44,350.8

(b) Science and engineering fair 214.5 214.5

(c) Institute for complex

additive systems analysis 862.9 100.0 2,300.0 3,262.9

(d) Cave and karst research 387.3 387.3

(e) Homeland security center 559.6 1,500.0 2,059.6

(f)	Supercomputing challenge				
	program	59.8		59.8	
(g)	Aerospace internship program		75.0		75.0
	Subtotal		157,861.8		

NORTHERN NEW MEXICO COLLEGE:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general				
	purposes	10,745.2	4,900.0	4,100.0	19,745.2
(b)	Other	2,800.0		4,600.0	7,400.0
(c)	Athletics	268.7	200.0		468.7
(d)	Nurse expansion	253.8			253.8
(e)	Science, technology,				
	engineering and math		149.6		149.6
(f)	Veterans center	124.7			124.7

Performance measures:

(a)	Output:	Percent of first-time, full-time freshmen completing an	
		academic program within six years	40%
(b)	Output:	Total number of baccalaureate degrees awarded	70
	Subtotal		28,142.0

SANTA FE COMMUNITY COLLEGE:

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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

(1) Main campus:

Appropriations:

(a)	Instruction and general purposes	9,936.9	26,800.0	3,200.0	39,936.9
(b)	Other	5,700.0	13,500.0	19,200.0	
(c)	Hospitality articulation		125.0		125.0
(d)	Automechanics	50.0		50.0	
(e)	Small business development centers	4,419.7		2,500.0	6,919.7
(f)	Nurse expansion	276.7		276.7	
(g)	Radiography technician program	100.0		100.0	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 11%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 79%

Subtotal 66,608.3

CENTRAL NEW MEXICO COMMUNITY COLLEGE:

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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	56,947.4	87,000.0	5,100.0	149,047.4
(b)	Other	9,700.0	53,000.0	62,700.0	
(c)	Nurse expansion	195.9		195.9	

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 11%
- (b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 83%

Subtotal 211,943.3

LUNA COMMUNITY COLLEGE:

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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	7,494.9	3,200.0	1,100.0	11,794.9
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(b)	Other	1,700.0	2,400.0	4,100.0
(c)	Athletics	416.7	416.7	
(d)	Nurse expansion	291.0		291.0
(e)	Student retention and completion	578.2	578.2	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 20%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 70%

Subtotal 17,180.8

MESALANDS COMMUNITY COLLEGE:

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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	4,294.0	1,100.0	1,000.0	6,394.0
(b)	Other	600.0	700.0	1,300.0	
(c)	Athletics	150.0		150.0	
(d)	Wind training center	123.1		123.1	

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 45%

Subtotal 7,967.1

NEW MEXICO JUNIOR COLLEGE:

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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	5,615.2	27,900.0	800.0	34,315.2
(b)	Other	3,000.0		5,300.0	8,300.0
(c)	Athletics	483.5		483.5	
(d)	Oil and gas management program	176.2		176.2	
(e)	Nurse expansion	308.2			308.2
(f)	Lea county distance education consortium		29.9		29.9

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time

to completion 33%

(b) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 80%

Subtotal 43,613.0

SAN JUAN COLLEGE:

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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes	24,836.6	31,600.0	2,000.0	58,436.6
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(b) Other	7,400.0	20,100.0	27,500.0	
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(c) Dental hygiene program	167.5		167.5	
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(d) Nurse expansion	216.2		216.2	
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Performance measures:

(a) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 83%

Subtotal 86,320.3

CLOVIS COMMUNITY COLLEGE:

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 that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general				
	purposes	9,945.2	5,400.0	1,200.0	16,545.2
(b)	Other	500.0	5,800.0	6,300.0	
(c)	Nurse expansion	297.4		297.4	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 14%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 74%

Subtotal 23,142.6

NEW MEXICO MILITARY INSTITUTE:

The purpose of the New Mexico military institute is to provide college-preparatory instruction for students in a residential, military environment culminating in a high school diploma or associates degree.

Appropriations:

(a)	Instruction and general				
	purposes	1,388.4	23,800.0	100.0	25,288.4
(b)	Other	8,300.0	900.0	9,200.0	
(c)	Athletics	281.3	400.0	681.3	
(d)	Knowles legislative				
	scholarship program		1,359.1		1,359.1

Performance measures:

(a) Outcome: American college testing composite scores for graduating high school seniors 22

(b) Outcome: Collegiate assessment of academic proficiency reading scores for graduating college sophomores 60

Subtotal 36,528.8

NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED:

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 891.1 12,400.0 200.0 13,491.1

(b) Early childhood center 382.9 382.9

(c) Low vision clinic programs 117.5 117.5

Performance measures:

(a) Outcome: Number of school districts that have established a memorandum of understanding requesting mentorship support services for visually impaired professionals entering the field 40

(b) Output: Percent of New Mexico teachers who complete a personnel preparation program to become a teacher of the visually impaired 10%

Subtotal 13,991.5

NEW MEXICO SCHOOL FOR THE DEAF:

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	4,040.6	12,100.0	400.0	16,540.6
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(b) Statewide outreach services		250.3		250.3
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Performance measures:

(a) Outcome: Percent of students in kindergarten through twelfth grade

demonstrating academic improvement across curriculum domains 85%

(b) Outcome: Rate of transition to postsecondary education,

vocational-technical training schools, junior colleges,

work training or employment for graduates based on a

three-year rolling average 100%

(c) Outcome: Percent of students in grades three to twelve who are late

language learners who demonstrate significant gains in

language and communication as demonstrated by pre- and

post-test results 80%

Subtotal		16,790.9		
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TOTAL HIGHER EDUCATION	848,455.6	1,509,310.4	42,277.3	659,864.5
	3,059,907.8			

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 2016.

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: 2,508,331.1 5,000.0 2,513,331.1

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 2015-2016 school year and then, on verification of the number of units statewide for fiscal year 2016, but no later than January 31, 2016, the secretary of public education may adjust the program unit value.

The general fund appropriation to the state equalization guarantee distribution includes sufficient funds to increase the minimum salary of level one teachers to thirty-four thousand dollars (\$34,000). Notwithstanding the provisions of the School Personnel Act or other substantive law, the secretary of public education shall ensure that no full-time level one teacher receives a base salary less than thirty-four thousand dollars (\$34,000) during fiscal year 2016.

For the 2015-2016 school year, the general fund appropriation to the state equalization guarantee distribution includes sufficient funding for school districts and charter schools to implement a new formula-based program. Those school districts and charter schools shall use current-year first reporting date membership in the calculation of program units for the new formula-based program. Increased charter school enrollment pursuant to an authorizer-approved increase in an existing enrollment cap shall be considered a new formula-based program. Notwithstanding the provisions of Section 22-8-23.1 NMSA 1978 or other substantive law, any membership in a new formula-based program shall not be included in membership for the purposes of calculating enrollment growth pursuant to Section 22-8-23.1 NMSA 1978.

The secretary of public education shall not distribute a school district's or charter school's state equalization guarantee distribution after the first reporting date, which is October 14, 2015, if, by that date, the school district or charter school has not conducted an assessment of its student assessment practices using a public education department-approved audit tool and submitted the results of the audit to the public education department and the local school board or governing body of the charter school. ~~[The public education department shall provide a report of the assessment audit results to the legislative education study committee by December 2015.]~~ *LINE-ITEM VETO*

After considering those elementary physical education programs eligible for state financial support and the amount of state funding available for elementary physical education, the secretary of public education shall annually determine the programs and the consequent numbers of students in elementary physical education that will be used to calculate the number of elementary physical education program units.

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from federal Mineral Leasing Act receipts otherwise unappropriated.

The general fund appropriation to the state equalization guarantee distribution reflects the deduction of federal revenue pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978 that includes payments commonly known as "impact aid funds" pursuant to 20 U.S.C. 7701 et seq., and formerly known as "PL874 funds".

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2016 from appropriations made from the general fund shall revert to the general fund.

Performance measures:

- (a) Outcome: Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in reading 50%
- (b) Outcome: Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics 50%
- (c) Outcome: Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in reading 60%
- (d) Outcome: Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics 50%
- (e) Outcome: Percent of recent New Mexico high school graduates who take remedial courses in higher education at two-year and four-year schools <40%
- (f) Quality: Current four-year cohort graduation rate using shared accountability 75%

(2) Transportation distribution:

Appropriations:	97,765.5	97,765.5
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Notwithstanding the provisions of Section 22-8-26 NMSA 1978 or other substantive law, a state-chartered charter school that receives a transportation allocation that exceeds the amount required to provide to-and-from transportation, three- and four-year-old developmentally disabled transportation and vocational education transportation shall deposit one hundred percent of the remaining balance in the transportation emergency fund at the end of fiscal year 2016.

(3) Supplemental distribution:

Appropriations:

(a)	Out-of-state tuition	300.0	300.0
(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, or other resources or any combination thereof, equaling five percent or more of their operating budget.

Any unexpended balances in the supplemental distribution of the public education department remaining at the end of fiscal year 2016 from appropriations made from the general fund shall revert to the general fund.

Subtotal	2,613,396.6
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FEDERAL FLOW THROUGH:

Appropriations:	414,202.3	414,202.3
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Subtotal	414,202.3
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INSTRUCTIONAL MATERIALS:

(1) Instructional material fund:

Appropriations:	21,900.0	21,900.0
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The appropriation to the instructional material fund is made from federal Mineral Leasing Act receipts.

(2) Dual-credit instructional materials:

Appropriations:	1,000.0	1,000.0
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The general fund appropriation to the public education department for dual-credit instructional materials shall be used by the department to reimburse school districts, charter schools, state-supported schools and bureau of Indian education high schools in New Mexico for the cost of required textbooks and other course supplies for students enrolled in the dual-credit program to the extent of the available funds.

Any unexpended balances in the dual-credit instructional materials distribution remaining at the end of fiscal year 2016 from appropriations made from the general fund shall revert to the general fund.

Subtotal	22,900.0
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INDIAN EDUCATION FUND:

Appropriations:	1,824.6	675.4	2,500.0
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The general fund appropriation to the Indian education fund of the public education department includes four hundred thousand dollars (\$400,000) for a nonprofit organization with ~~[the primary purpose of recruiting recent college graduates and professionals who have]~~ a record of demonstrated achievement to teach in low-income urban and rural public schools to provide teaching support in schools with a high proportion of Native American students. *LINE-ITEM VETO*

The other state funds appropriation is from the Indian education fund.

Subtotal 2,500.0

STANDARDS-BASED ASSESSMENTS:

Appropriations: 6,000.0 6,000.0

Subtotal 6,000.0

TOTAL PUBLIC SCHOOL SUPPORT 2,639,121.2 5,675.4 414,202.3
3,058,998.9

GRAND TOTAL FISCAL YEAR 2016

APPROPRIATIONS 6,220,299.1 3,998,862.0 482,180.6 7,375,251.3 18,076,593.0

Chapter 101 Section 5 Laws 2015

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 2015 and 2016. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2016 shall revert to the appropriate fund.

~~[(1) LEGISLATURE 75.0 75.0~~

~~To the legislative council service for a study of the state's options for funding the establishment and operation of a liver institute in the city of Gallup. The study shall be performed by a nonprofit healthcare system recognized nationwide for excellence in medical care, research and education.] LINE-ITEM VETO~~

(2) LEGISLATURE 75.0 75.0

To the legislative council service for administrative support for the capitol buildings planning commission. The appropriation is from cash balances.

(3) LEGISLATURE 1,500.0 1,500.0

To the legislative council service for capitol improvements and infrastructure upgrades. The appropriation is from cash balances.

~~[(4) ADMINISTRATIVE OFFICE OF THE COURTS 600.0 600.0~~

~~To address court priorities for vehicles, furniture and equipment at courts statewide.] LINE-ITEM VETO~~

(5) SECOND JUDICIAL DISTRICT ATTORNEY 150.0 150.0

To address the backlog in criminal cases to comply with new court case processing time standards.

(6) ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2015 from revenues received in fiscal year 2015 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. Prior to November 1, 2015, the administrative office of the district attorneys shall provide to the department of finance and administration and the legislative finance committee a detailed report documenting the amount of all southwest border prosecution initiative funds that do not revert at the end of fiscal year 2015 for each of the district attorneys and the administrative office of the district attorneys.

(7) ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2015 from revenues received in fiscal year 2015 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. Prior to November 1, 2015, 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 2015 for each of the district attorneys and the administrative office of the district attorneys.

(8) ATTORNEY GENERAL 2,000.0 2,000.0

To defend the Rio Grande compact. The appropriation is from the consumer settlement fund.

(9) ATTORNEY GENERAL 500.0 500.0

To provide pre-foreclosure services to homeowners. The appropriation is from the mortgage settlement fund awarded to the attorney general's office to provide housing counseling, litigation and foreclosure mediation for homeowners facing foreclosure.

(10) ATTORNEY GENERAL 1,800.0 1,800.0

To review the behavioral health audit. The appropriation is from the consumer settlement fund.

(11) DEPARTMENT OF FINANCE

AND ADMINISTRATION 1,224.2 1,224.2

For automation support of New Mexico's comprehensive annual financial report.

~~(12) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 200.0 200.0~~

~~For disbursement to the renewable energy transmission authority for operating costs in fiscal year 2016. The renewable energy transmission authority shall report to the interim New Mexico finance authority oversight committee on the status of the agency's operating budget.] LINE-ITEM VETO~~

(13) DEPARTMENT OF FINANCE

AND ADMINISTRATION 250.0 250.0

For oversight of the Affordable Housing Act by the New Mexico mortgage finance authority.

(14) DEPARTMENT OF FINANCE

AND ADMINISTRATION 3,946.0 3,946.0

For the second phase of the cash remediation project~~[, which will integrate third-party payment systems data into the statewide human resources, accounting and management reporting system. The appropriation includes sufficient funding to reassess cash balances between the general ledger and bank balances to establish new starting balances for the general fund and agency funds beginning July 1, 2015].~~ The department of finance and administration shall submit a plan to the state board of finance ~~[and the legislative finance committee no later than May 1, 2015,]~~ to fully reconcile cash balances, ~~[including establishing new balances, by fund]~~ and report the implementation status of the plan quarterly to the state board of finance ~~[and the legislative finance committee].~~ *LINE-ITEM VETO*

(15) DEPARTMENT OF FINANCE

AND ADMINISTRATION 150.0 150.0

For utility infrastructure planning in San Juan county.

~~[(16) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 75.0 75.0~~

~~To the local government division for state planning districts to improve planning, tracking and mapping of community and economic development projects and to provide technical assistance to implement and coordinate projects.]~~ *LINE-ITEM VETO*

(17) GENERAL SERVICES DEPARTMENT

The period of time for expending the one million four hundred thousand dollars (\$1,400,000) appropriated from the public buildings repair fund to the property control division of the general services department in Subsection 23 of Section 5 of Chapter 227 of Laws 2013 and extended pursuant to Subsection 27 of Section 5 of Chapter 63 of Laws 2014 to conduct facility condition assessments of all state facilities under the jurisdiction of the property control division of the general services department is re-appropriated to the facilities management program of the general services department for the same purpose and is extended through fiscal year 2016.

(18) GENERAL SERVICES DEPARTMENT 1,200.0
1,200.0

To develop and administer master planning guidelines and provide pre-implementation and training to executive agencies, to provide assessment of space and tenant assignments in buildings owned by the facilities management program and to provide assessment and valuation of land managed by the facilities management program. The appropriation is from the public buildings repair fund.

~~[(19) PUBLIC DEFENDER DEPARTMENT 1,300.0
1,300.0~~

~~For contract counsel costs statewide and for operating expenses.]~~ *LINE-ITEM VETO*

(20) SECRETARY OF STATE 541.4 541.4

For expenses related to the 2016 primary election.

(21) ECONOMIC DEVELOPMENT DEPARTMENT 27,000.0 10,500.0
37,500.0

For projects pursuant to the Local Economic Development Act. At least two million five hundred thousand dollars (\$2,500,000) shall be expended in rural areas of the state. The economic development department shall submit ~~quarterly~~ reports to the legislative finance committee and the department of finance and administration with details of projected expenditures, including company or project names, locations, use of funds expended to date, jobs created to date, jobs announced, private investment to date, private investment announced and clawback provisions. The other state funds appropriation, except as otherwise provided in the Tax Administration Act, is from the fiscal year 2015 New Mexico finance authority portion of the governmental gross receipts tax distributed to the New Mexico finance authority pursuant to state law that is not otherwise pledged for payment of obligations of the New Mexico finance authority. Any unexpended balances at the end of a fiscal year from this appropriation shall not revert.
LINE-ITEM VETO

(22) ECONOMIC DEVELOPMENT DEPARTMENT 300.0 300.0

For technology transfer.

(23) ECONOMIC DEVELOPMENT DEPARTMENT 350.0 350.0

For the mainstreet program, including sufficient funding for frontier areas of the state.

(24) ECONOMIC DEVELOPMENT DEPARTMENT

The period of time for expending the ten million dollars (\$10,000,000) appropriated from the general fund in Subsection 33 of Section 5 of Chapter 63 of Laws 2014 for projects pursuant to the Local Economic Development Act is extended through fiscal year 2016.

(25) ECONOMIC DEVELOPMENT DEPARTMENT 5,500.0
5,500.0

To the development training fund for the job training incentive program.

(26) REGULATION AND LICENSING DEPARTMENT 35.0 35.0

For training for financial institutions division examination staff on new financial regulatory requirements stemming from the Dodd-Frank Wall Street Reform and Consumer Protection Act. The appropriation is from the state financial regulation fund.

(27) OFFICE OF SUPERINTENDENT OF INSURANCE

The period of time for expending the one hundred thousand dollars (\$100,000) appropriated from the internal services funds/interagency transfers in Subsection 39 of Section 5 of Chapter 63 of Laws 2014

for an audit of premium tax collections is extended through fiscal year 2016 subject to oversight by the state auditor.

(28) GAMING CONTROL BOARD

The period of time for expending the two hundred thousand dollars (\$200,000) appropriated from the general fund in Subsection 14 of Section 5 of Chapter 19 of Laws 2012 and extended pursuant to Subsection 32 of Section 5 of Chapter 227 of Laws 2013 and Subsection 40 of Section 5 of Chapter 63 of Laws 2014 for arbitration and litigation expenses related to tribal gaming is extended through fiscal year 2016.

(29)	SPACEPORT AUTHORITY	500.0	500.0
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For a projected fiscal year 2016 budget shortfall contingent on enterprise revenues not materializing and approval from the state board of finance.

(30)	CULTURAL AFFAIRS DEPARTMENT	150.0	150.0
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For educational programs and maintenance at the Los Luceros property. The funding shall transfer to the New Mexico state university board of regents agricultural experiment station pursuant to an agreement with the cultural affairs department for the operations of the Los Luceros property.

(31)	CULTURAL AFFAIRS DEPARTMENT	300.0	300.0
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For renovation and upgrades of exhibits at the museum of Indian arts and culture contingent on a private match of at least three hundred thousand dollars (\$300,000). Disbursement of this appropriation is permitted in fifty thousand dollar (\$50,000) increments when matching funds have been received.

(32)	NEW MEXICO LIVESTOCK BOARD	50.0	50.0
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To train and equip livestock inspectors.

(33)	DEPARTMENT OF GAME AND FISH	525.0	525.0
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To purchase radios and necessary equipment to upgrade law enforcement vehicles. The appropriation is from the game protection fund.

(34) ENERGY, MINERALS AND

	NATURAL RESOURCES DEPARTMENT	1,000.0	1,000.0
	2,000.0		

For transfer to the forest and watershed restoration fund for forestry and watershed restoration contingent on enactment of House Bill 38 or similar legislation of the first session of the fifty-second legislature establishing the forest and watershed restoration fund and board. The other state funds appropriation includes five hundred thousand dollars (\$500,000) from the trail safety fund and five hundred thousand dollars (\$500,000) from the game protection fund.

(35)	COMMISSIONER OF PUBLIC LANDS	200.0	200.0
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For forestry and watershed restoration in coordination with the forest and watershed restoration board. The other state funds appropriation is from the state lands maintenance fund and is contingent on enactment of House Bill 38 or similar legislation of the first session of the fifty-second legislature establishing the forest and watershed restoration fund and board.

(36)	COMMISSIONER OF PUBLIC LANDS	260.0	260.0
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To complete historical back file conversion. The appropriation is from the state lands maintenance fund.

(37)	STATE ENGINEER	2,000.0	2,000.0
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To continue water litigation under interstate compacts. The appropriation is from the consumer settlement fund of the office of the attorney general.

(38)	HUMAN SERVICES DEPARTMENT		
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Any unexpended balances in the income support program of the human services department remaining at the end of fiscal year 2015 from reimbursements received from the social security administration to support the general assistance program shall not revert and may be expended by the human services department in fiscal year 2016 for payments in the general assistance program.

(39)	HUMAN SERVICES DEPARTMENT	2,000.0	4,666.7
		6,666.7	

For costs associated with increases in medicaid enrollment.

(40)	HUMAN SERVICES DEPARTMENT	500.0	500.0
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To support rate increases for medicaid nursing facilities.

(41)	DEPARTMENT OF HEALTH		
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Any unexpended balances in the developmental disabilities support program of the department of health in the other financing uses category remaining at the end of fiscal year 2015 from appropriations made from the general fund shall not revert to the general fund and shall be expended in fiscal year 2016 to support the developmental disabilities medicaid waiver program in the developmental disabilities support program of the department of health.

(42)	DEPARTMENT OF ENVIRONMENT	500.0	500.0
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For environmental litigation, administrative hearings and regulatory matters. The appropriation is from the consumer settlement fund of the office of the attorney general. Any unexpended balances of the appropriation remaining at the end of any fiscal year shall not revert.

(43)	VETERANS' SERVICES DEPARTMENT	136.2	136.2
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For operating expenses at the proposed state veterans' cemetery in Fort Stanton contingent on the federal government providing capital outlay funding for the cemetery.

(44)	CHILDREN, YOUTH		
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AND FAMILIES DEPARTMENT

Any unexpended balances in the protective services program and the early childhood services program of the children, youth and families department remaining at the end of fiscal year 2015 from appropriations made from the general fund shall not revert.

(45) CHILDREN, YOUTH

AND FAMILIES DEPARTMENT 1,000.0 696.5 1,696.5

For care and support for foster care payments.

(46) CORRECTIONS DEPARTMENT

Any unexpended balances in the inmate management and control program of the corrections department remaining at the end of fiscal year 2015 from revenues received from the United States department of justice to house undocumented foreign nationals in corrections department prison facilities shall not revert and shall remain with the corrections department for expenditure in fiscal year 2016. The corrections department shall provide to the department of finance and administration [~~and the legislative finance committee~~] by November 1, 2015 a detailed report documenting the amount of all funds received from the United States department of justice for housing undocumented foreign nationals that do not revert at the end of fiscal year 2015 and also ensure proper reporting in the department's fiscal year 2015 audit.

LINE-ITEM VETO

(47) CORRECTIONS DEPARTMENT 500.0 500.0

For a transitional living pilot program.

(48) CORRECTIONS DEPARTMENT 7,000.0 7,000.0

For inmate population growth and overtime in high-level custody prison facilities contingent on approval from the state board of finance.

(49) CORRECTIONS DEPARTMENT 2,000.0 2,000.0

To address deferred maintenance at corrections facilities statewide. The appropriation is from the land grant permanent fund.

(50) CORRECTIONS DEPARTMENT 50.0 50.0

To document and archive materials from the New Mexico penitentiary riot of 1980.

(51) DEPARTMENT OF PUBLIC SAFETY

Any unexpended balances in the law enforcement program of the department of public safety remaining at the end of fiscal year 2015 from appropriations made from the general fund shall not revert to the general fund.

(52) DEPARTMENT OF PUBLIC SAFETY 205.0 205.0

For latent finger print contractors to clear backlogged cases.

(53) DEPARTMENT OF PUBLIC SAFETY 1,355.0
1,355.0

For vehicle replacement.

(54) DEPARTMENT OF TRANSPORTATION

The period of time for expending up to eighty million dollars (\$80,000,000) of other state funds and federal funds appropriated to the transportation and highway operations program of the department of transportation pertaining to prior fiscal years is extended through fiscal year 2016.

(55) DEPARTMENT OF TRANSPORTATION

The period of time for expending up to four hundred million dollars (\$400,000,000) of other state funds and federal funds appropriated to the programs and infrastructure program of the department of transportation pertaining to prior fiscal years is extended though fiscal year 2016.

(56) PUBLIC EDUCATION DEPARTMENT 2,000.0
2,000.0

For distribution to classroom teachers to purchase classroom supplies. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

(57) PUBLIC EDUCATION DEPARTMENT 2,000.0
2,000.0

For emergency support to school districts experiencing shortfalls. All requirements for distribution of funds shall be in accordance with Section 22-8-30 NMSA 1978.

(58) PUBLIC EDUCATION DEPARTMENT 1,200.0
1,200.0

For legal fees related to two education funding sufficiency lawsuits and reopening of the Zuni lawsuit.

(59) PUBLIC EDUCATION DEPARTMENT 450.0 450.0

For the fiscal year 2014 financial statement audit of the public education department and state-chartered charter schools.

(60) PUBLIC EDUCATION DEPARTMENT

The period of time for expending the seven million two hundred thirty thousand one hundred dollars (\$7,230,100) appropriated from the general fund to the public education department in Paragraph (v) of Subsection I of Section 4 of Chapter 63 of Laws 2014 for teacher and school leader programs and supports for training, preparation, recruitment and retention is extended through fiscal year 2016.

(61) PUBLIC EDUCATION DEPARTMENT

The period of time for expending the two million nine hundred ninety-one thousand eight hundred dollars (\$2,991,800) appropriated from the general fund to the public education department in Paragraph (o) of Subsection I of Section 4 of Chapter 63 of Laws 2014 for school leader preparation is extended through fiscal year 2016.

(62) PUBLIC EDUCATION DEPARTMENT 3,100.0
3,100.0

To the instructional material fund. The general fund appropriation includes one million one hundred thousand dollars (\$1,100,000) from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

(63) HIGHER EDUCATION DEPARTMENT 500.0 500.0

To provide grants to public universities to improve campus security. Funding shall be available to purchase equipment~~[, hire staff]~~ and for other uses consistent with an action plan approved by the higher education department that improves campus security. *LINE-ITEM VETO*

(64) HIGHER EDUCATION DEPARTMENT 5,500.0
5,500.0

To replenish the higher education endowment fund contingent on enactment of House Bill 170 or similar legislation of the first session of the fifty-second legislature amending Section 21-1-27.1 NMSA 1978.

(65) UNIVERSITY OF NEW MEXICO 250.0 250.0

For the health sciences center to provide three-dimensional mammography services to women eligible for medicaid or the breast and cervical cancer screening program and to provide outreach and education concerning three-dimensional mammography.

~~[(66) UNIVERSITY OF NEW MEXICO 225.0 225.0]~~

~~For health sciences center instruction and general purposes.] LINE-ITEM VETO~~

(67) COMPUTER SYSTEMS ENHANCEMENT FUND 13,780.0
13,780.0

For transfer to the computer systems enhancement fund for system replacements or enhancements.

TOTAL SPECIAL APPROPRIATIONS 85,157.8 24,350.0 5,363.2
114,871.0

Chapter 101 Section 6 Laws 2015

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 2015 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 2015 for the purpose specified and approval by the department of finance and

administration. Any unexpended balances remaining at the end of fiscal year 2015 shall revert to the appropriate fund. *LINE-ITEM VETO*

(1) ADMINISTRATIVE OFFICE OF THE
COURTS 300.0 300.0

For a shortfall in the court-appointed attorney fund in fiscal year 2015.

(2) ADMINISTRATIVE OFFICE OF THE
COURTS 550.8 550.8

For juror and interpreter costs.

(3) ADMINISTRATIVE OFFICE OF THE
COURTS 596.1 596.1

For juror, witness and interpreter costs incurred in fiscal year 2014.

~~[(4) ADMINISTRATIVE OFFICE OF THE
COURTS 750.0 750.0~~

~~To replace funding vetoed in Senate Bill 38 and Senate Bill 84 in 2014 for magistrate court operations in fiscal year 2015.] *LINE-ITEM VETO*~~

(5) FIFTH JUDICIAL DISTRICT ATTORNEY 46.9 46.9

To clear an audit adjustment in the fiscal year 2014 annual audit.

(6) TENTH JUDICIAL DISTRICT ATTORNEY 28.0 28.0

For witness costs in fiscal year 2015.

(7) AGING AND LONG-TERM
SERVICES DEPARTMENT 100.0 100.0

For a projected shortfall in personal services and employee benefits in the adult protective services program in fiscal year 2015.

(8) CHILDREN, YOUTH AND
FAMILIES DEPARTMENT 500.0 249.5 749.5

For a projected shortfall in the personal services and employee benefits category in the protective services program in fiscal year 2015.

(9)	CORRECTIONS DEPARTMENT	937.1		937.1
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For a shortfall in the personal services and employee benefits category in the community offender management program in fiscal year 2014. The appropriation is from the intensive supervision fund.

(10)	CORRECTIONS DEPARTMENT	4,774.0		4,774.0
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For a shortfall in the personal services and employee benefits category in the inmate management and control program in fiscal year 2014.

(11)	CRIME VICTIMS REPARATION COMMISSION	200.0		
	200.0			

For crime victim reimbursements.

(12)	HIGHER EDUCATION DEPARTMENT	9,500.0		
	9,500.0			

For a shortfall in the student financial aid special program fund for loan repayment, loan-for-service and tuition waiver obligations incurred during fiscal year 2014.

TOTAL SUPPLEMENTAL AND

DEFICIENCY APPROPRIATIONS	17,345.8	937.1	249.5	18,532.4
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Chapter 101 Section 7 Laws 2015

Section 7. **DATA PROCESSING 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 2015, 2016 and 2017. Unless otherwise indicated, any unexpended balances remaining at the end of fiscal year 2017 shall revert to the computer systems enhancement fund or other funds as indicated. ~~[For each executive branch agency project, the information technology commission shall certify that the purposes specified in this section comply with Section 9-27-9 NMSA 1978 prior to the allocation of thirteen million dollars (\$13,000,000) by the department of finance and administration.]~~ The department of finance and administration shall allocate amounts from the funds for the purposes specified upon receiving certification and supporting documentation from the state chief information officer that indicates compliance with the project certification process. 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. *LINE-ITEM VETO*

(1)	ADMINISTRATIVE OFFICE
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OF THE COURTS

The period of time for expending the two hundred twenty thousand dollars (\$220,000) appropriated from the computer systems enhancement fund in Subsection 2 of Section 7 of Chapter 227 of Laws 2013 to extend the statewide integrated and consolidated case management system with electronic document

management and electronic filing to the New Mexico supreme court and the New Mexico court of appeals is extended through fiscal year 2016.

(2) ADMINISTRATIVE OFFICE

OF THE COURTS 780.0 780.0

To purchase and implement jury management system software.

(3) TAXATION AND REVENUE DEPARTMENT 8,861.5
8,861.5

To implement the motor vehicle division system modernization project. Three million six hundred ninety thousand dollars (\$3,690,000) of the other state funds appropriation is from cash balances.

(4) DEPARTMENT OF FINANCE

AND ADMINISTRATION 250.0 250.0

To develop a plan for modernizing the community development, local government assistance and fiscal oversight database for improved oversight of local public bodies.

(5) DEPARTMENT OF FINANCE

AND ADMINISTRATION 250.0 250.0

To develop a plan for modernizing the state's budget information system. The other state funds appropriation is contingent on the legislative finance committee and the department of finance and administration entering into a joint powers agreement for the purpose of cooperating and cost sharing in the joint design, development, acquisition and implementation of the budget system.

(6) GENERAL SERVICES DEPARTMENT 750.0 750.0

To plan, design and implement the statewide human resources, accounting and management reporting system strategic sourcing module contingent on full project certification and oversight by the department of information technology. The appropriation is from the state purchasing enterprise fund.

(7) DEPARTMENT OF INFORMATION TECHNOLOGY

The period of time for expending the five million dollars (\$5,000,000) appropriated from the computer systems enhancement fund in Subsection 7 of Section 7 of Chapter 227 of Laws 2013 to stabilize and upgrade the statewide human resources, accounting and management reporting system to current levels of hardware and software is extended through fiscal year 2017.

(8) DEPARTMENT OF INFORMATION TECHNOLOGY 400.0
400.0

To initiate and plan the development of the one-stop business portal.

(9) PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 350.0
350.0

For the initial conversion of long-term retention records from an electronic image to microfilm and system modifications to the retirement information online systems. The appropriation is from interest on investments.

(10) STATE COMMISSION OF PUBLIC RECORDS

The period of time for expending the eight hundred twenty-two thousand four hundred dollars (\$822,400) appropriated from the computer systems enhancement fund in Subsection 9 of Section 7 of Chapter 227 of Laws 2013 to continue implementation of the centralized electronic records repository system is extended through fiscal year 2017.

(11) SECRETARY OF STATE

The period of time for expending the one million two hundred fifteen thousand dollars (\$1,215,000) appropriated from the computer systems enhancement fund in Subsection 10 of Section 7 of Chapter 227 of Laws 2013 to purchase and implement new software and related information technology for the business services division of the secretary of state is extended through fiscal year 2016.

(12) SECRETARY OF STATE 1,400.0 1,400.0

To continue implementation of the integrated reporting and integrity system.

(13) PERSONNEL BOARD 800.0 800.0

To continue the project to digitize state personnel records. The appropriation is contingent on the completion of the inspection or survey of state personnel board records ~~[by the state commission of public records]~~ to ensure compliance with the New Mexico Public Records Act and issuing a request for proposals and submitting a project plan to the department of information technology~~], the department of finance and administration and the legislative finance committee that includes milestones, estimated completion date for each milestone,]~~ estimated total cost and deliverables. *LINE-ITEM VETO*

(14) STATE TREASURER

The period of time for expending the one million nine hundred fifty thousand dollars (\$1,950,000) appropriated from the computer systems enhancement fund in Subsection 11 of Section 7 of Chapter 227 of Laws 2013 to implement a treasury module in the statewide human resources, accounting and management reporting system is extended through fiscal year 2017.

(15) REGULATION AND LICENSING DEPARTMENT

The period of time for expending the one hundred eighty-six thousand two hundred dollars (\$186,200) appropriated from the computer systems enhancement fund in Subsection 12 of Section 7 of Chapter 227 of Laws 2013 to implement and upgrade the construction tracking system is extended through 2017.

(16) REGULATION AND LICENSING DEPARTMENT 650.0 650.0

To consolidate the construction industries licensing system with the construction tracking system.

(17) OFFICE OF SUPERINTENDENT OF INSURANCE

The period of time for expending the one million two hundred fifty thousand dollars (\$1,250,000) appropriated from the insurance operations fund in Subsection 13 of Section 7 of Chapter 227 of Laws 2013 to migrate the insurance system and processes to a paperless, web-based environment is extended through fiscal year 2017.

(18) DEPARTMENT OF GAME AND FISH 350.0 350.0

To purchase hardware and software for the department of game and fish mission critical systems. The appropriation is from the game protection fund and is contingent on the department of game and fish submitting a full information technology business case to the department of information technology[, the department of finance and administration and the legislative finance committee] and submitting a project plan to the department of information technology[, the department of finance and administration and the legislative finance committee] that includes milestones, estimated completion dates for each milestone, estimated total cost and deliverables. *LINE-ITEM VETO*

(19) HUMAN SERVICES DEPARTMENT 3,400.0
3,400.0

For the planning phase to enhance or replace the current child support enforcement system. The appropriation is from fund balances.

(20) HUMAN SERVICES DEPARTMENT 620.0 5,580.0
6,200.0

To redevelop and replace the medicaid management information system.

(21) CHILDREN, YOUTH
AND FAMILIES DEPARTMENT 2,708.5 2,708.5

To develop and implement the juvenile justice component of the enterprise provider information constituents services system.

(22) CORRECTIONS DEPARTMENT 500.0 500.0

For the planning phase to implement a commercial off-the-shelf offender management system. [The appropriation is contingent on the corrections department issuing a request for information regarding available system alternatives, issuing a request for proposals, and submitting a project plan to the department of information technology, the department of finance and administration and the legislative finance committee that includes milestones, estimated completion dates for each milestone, estimated total cost and deliverables.] *LINE-ITEM VETO*

(23) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the two million eight hundred fifty thousand dollars (\$2,850,000) appropriated from the computer systems enhancement fund in Subsection 19 of Section 7 of Chapter 227 of Laws 2013 to implement an integrated computer-aided dispatch and records management system is extended through fiscal year 2017. [Release of the appropriation is contingent on the department of public safety issuing a request for information regarding available system alternatives, issuing a request for

~~proposals, and submitting a project plan to the department of information technology, the department of finance and administration and the legislative finance committee that includes milestones, estimated completion dates for each milestone, estimated total cost and deliverables.] LINE-ITEM VETO~~

(24) DEPARTMENT OF PUBLIC SAFETY 250.0 250.0

For the planning phase to implement a records management system.

(25) DEPARTMENT OF PUBLIC SAFETY

The balance of the computer systems enhancement fund appropriations made pursuant to Subsection 20 of Section 7 of Chapter 227 of Laws 2013 and Subsection 20 of Section 7 of Chapter 63 of Laws 2014 to implement an automated finger print identification system as part of the western identification network shall not be expended for the original purpose but is appropriated to implement an integrated computer-aided dispatch and records management system.

TOTAL DATA PROCESSING APPROPRIATIONS	22,320.0
5,580.0 27,900.0	

Chapter 101 Section 8 Laws 2015

Section 8. ADDITIONAL FISCAL YEAR 2015 BUDGET ADJUSTMENT

AUTHORITY.--During fiscal year 2015, 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 2014:

A. the administrative office of the courts may request budget increases up to one hundred seventy-six thousand dollars (\$176,000) from other state funds and program fees for language access training, may request up to forty-five thousand dollars (\$45,000) from internal service funds/interagency transfers and other state funds received from political subdivisions of the state to reimburse magistrate courts for services provided, may request up to sixty thousand dollars (\$60,000) from magistrate drug court fund balances to fund driving-while-intoxicated program managers due to lapsing federal funds, may request up to two hundred fifty thousand dollars (\$250,000) from warrant enforcement fund balances to pay for magistrate lease payment shortfalls and may request category transfers up to twenty-seven thousand two hundred dollars (\$27,200) from the other financing uses category to the contractual services category for shortfalls in the court-appointed special advocates network contract to monitor and coordinate statewide efforts to advocate for abused and neglected children;

B. the first judicial district court may request budget increases up to fifty thousand dollars (\$50,000) from fund balances in the court's child support program to pay for contract court-appointed attorneys;

C. the second judicial district court may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds or internal service

funds/interagency transfers received from the behavioral health services program of the human services department for the veterans treatment court program;

D. the third judicial district court may request budget increases up to twenty thousand dollars (\$20,000) from other state funds from mediation fees;

E. the fifth judicial district court may request budget increases up to sixty-four thousand dollars (\$64,000) from other state funds from duplication fees;

F. the thirteenth judicial district court may request budget increases up to one hundred thirty thousand dollars (\$130,000) from other state funds for the operations of the pretrial services program and may request budget increases up to fifty thousand dollars (\$50,000) from other state funds for the operation of the social worker program;

G. the ninth judicial district attorney may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers and other state funds pursuant to the Forfeiture Act for prosecution of cases;

H. the eleventh judicial district attorney-division II may request budget increases up to fifty thousand dollars (\$50,000) from internal service funds/interagency transfers and other state funds received from any political subdivision of the state or from Native American tribes to assist in the prosecution of crimes within McKinley county and may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds from forfeiture revenues pursuant to the Forfeiture Act for prosecution of cases;

I. the taxation and revenue department may request program transfers up to five hundred thousand dollars (\$500,000) to cover shortfalls in the personal services and employee benefits category;

J. the public defender department may request budget increases up to six hundred thousand dollars (\$600,000) from internal service funds/interagency transfers and other state funds;

K. the construction industries and manufactured housing program of the regulation and licensing department may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers received from the public school facilities authority for costs associated with the permitting and inspection of projects funded under the Public School Capital Outlay Act;

~~[L. notwithstanding the provisions of Section 8-8-9.1 NMSA 1978 or other substantive law, the policy and regulation program of the public regulation commission may request budget increases up to two hundred thirty thousand dollars (\$230,000) from the training academy use fee fund to cover a shortfall in the personal services and employee benefits category;] LINE-ITEM VETO~~

M. the patient's compensation fund program of the office of superintendent of insurance may request budget increases up to three million dollars (\$3,000,000) from fund balances for patients' compensation settlements and court-ordered payments;

N. the New Mexico board of veterinary medicine may request budget increases up to thirty-five thousand dollars (\$35,000) from other state funds for the administrative hearing and litigation process;

O. the cultural affairs department may request program transfers up to five hundred thousand dollars (\$500,000) among programs;

P. the department of game and fish may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds from the game protection fund for emergencies;

Q. the aging and long-term services department may request program transfers up to one hundred twenty thousand dollars (\$120,000) from the consumer and elder rights program to the adult protective services program and up to sixty thousand dollars (\$60,000) from program support to the adult protective services program;

R. the human services department may request program transfers between the medical assistance program and the medicaid behavioral health program;

S. the independent living services program of the division of vocational rehabilitation may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds for independent living services for the disabled;

T. the office of guardianship of the developmental disabilities planning council may request budget increases up to two hundred thousand dollars (\$200,000) from internal service funds/interagency transfers and other state funds;

U. the department of health may request program transfers up to four million dollars (\$4,000,000) from the public health program, epidemiology and response program and the administration program to the personal services and employee benefits category in the facilities management program;

V. the juvenile justice facilities program of the children, youth and families department may request budget increases up to two hundred eighty thousand dollars (\$280,000) from other state funds from the juvenile continuum grant fund, may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds from the juvenile community corrections grant fund and may transfer up to twenty thousand dollars (\$20,000) to the juvenile public safety advisory board;

W. the department of military affairs may request budget increases up to forty-eight thousand dollars (\$48,000) from internal service funds/interagency transfers that are federal in origin received from the New Mexico public education department

national school lunch program for support of the New Mexico youth challenge academy and 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 or the New Mexico youth challenge academy;

X. the corrections department may request program transfers up to three million dollars (\$3,000,000) between programs to reduce shortfalls in the inmate management and control program and may request budget increases up to two million five hundred thousand dollars (\$2,500,000) from internal service funds/interagency transfers and other state funds from program fees, sales revenues and fund balances;

Y. the department of public safety may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds for fingerprint and records fees collected in excess of those budgeted;

Z. the department of transportation may request budget increases up to forty-five million dollars (\$45,000,000) from other state funds and fund balances to meet federal match requirements, for debt service and related costs, intergovernmental agreements, lawsuit and construction- and maintenance-related costs, may request program transfers between the programs and infrastructure program and the transportation and highway operations program for costs related to engineering, construction, and maintenance services and may request program transfers into the personal services and employee benefits category for prospective salary increases and the employer's share of applicable taxes and retirement benefits associated with the fiscal year 2015 salary increases of three percent to employees in budgeted positions who completed their probationary period subject to satisfactory job performance; and

AA. the public education department may request budget increases up to six million three hundred thousand dollars (\$6,300,000) from school districts and charter schools for fiscal year 2015 standards-based assessment fees and may request budget increases up to twenty thousand dollars (\$20,000) from the school transportation training fund to provide public school transportation workshops and training.

Chapter 101 Section 9 Laws 2015

Section 9. CERTAIN FISCAL YEAR 2016 BUDGET ADJUSTMENTS AUTHORIZED.--

A. As used in this section and Section 8 of the General Appropriation Act of 2015:

(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 2016.

C. In addition to the specific category transfers authorized in Subsection E of this section and unless a conflicting category transfer is authorized in Subsection E of this section, all agencies, including legislative agencies, may request category transfers among personal services and employee benefits, contractual services and other.

D. Unless a conflicting budget increase is authorized in Subsection E of this section, a program with internal service funds/interagency transfers appropriations or other state funds appropriations that collects money in excess of those appropriated may request budget increases in an amount not to exceed five percent of its internal service funds/interagency transfers or other state funds appropriation in Section 4 of the General Appropriation Act of 2015. To track the five percent transfer limitation, agencies shall report cumulative budget adjustment request totals on each budget request submitted. The department of finance and administration shall certify agency reporting of these cumulative totals.

E. In addition to the budget authority otherwise provided in the General Appropriation Act of 2015, 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 costs associated with subscriptions, supreme court opinions and other publications;

(2) the judicial standards commission may request budget increases up to thirty thousand dollars (\$30,000) from other state funds from investigation and trial cost reimbursements;

(3) the administrative office of the courts may request category transfers up to fifty thousand dollars (\$50,000) from the contractual services category to the other financing uses category in the court-appointed attorney fund to assist courts statewide to improve representation for children and their parents;

(4) the first judicial district court may request budget increases up to fifty thousand dollars (\$50,000) from other state funds for contract court-appointed attorneys;

(5) the second judicial district court may request budget increases up to three hundred fifty thousand dollars (\$350,000) from other state funds or internal service funds/interagency transfers from the New Mexico attorney general's office for the foreclosure facilitation pilot project, may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds or internal service funds/interagency transfers received from the behavioral health services program of the human services department for the veterans treatment court program, may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds received from Bernalillo county and may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from adult drug court fees;

(6) the third judicial district court may request budget increases up to twenty thousand dollars (\$20,000) from other state funds from mediation costs;

(7) the eleventh judicial district court may request budget increases up to twenty thousand dollars (\$20,000) from other state funds from adult drug court treatment fund balances, may request budget increases up to ten thousand dollars (\$10,000) from internal service funds/interagency transfers from copy fees, may request budget increases up to forty thousand dollars (\$40,000) from internal service funds/interagency transfers for pretrial services and may request budget increases up to twenty thousand dollars (\$20,000) from other state funds for mediation services;

(8) the thirteenth judicial district court may request budget increases up to one hundred thirty thousand dollars (\$130,000) from other state funds for pretrial services, may request budget increases up to one hundred fifty thousand dollars (\$150,000) from other state funds for the foreclosure settlement program and may request budget increases up to twenty thousand dollars (\$20,000) from other state funds for the social worker program;

(9) the first judicial district attorney may request budget increases from internal service funds/interagency transfers and other state funds received from any political subdivision of the state or from Native American tribes and may request budget increases up to one hundred twenty-five thousand dollars (\$125,000) from internal service funds/interagency transfers to prosecute white collar and public integrity crimes statewide;

(10) the second judicial district attorney may request budget increases up to one hundred ninety thousand dollars (\$190,000) from internal service funds/interagency transfers and other state funds for case prosecution;

(11) the eighth judicial district attorney may request budget increases up to two hundred fifty thousand dollars (\$250,000) from internal service

funds/interagency transfers and other state funds from forfeiture revenues pursuant to the Forfeiture Act for prosecution of cases;

(12) the ninth judicial district attorney may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers and other state funds from forfeiture revenues pursuant to the Forfeiture Act for prosecution of cases;

(13) the twelfth judicial district attorney may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers and other state funds received from any political subdivision of the state or from Native American tribes to assist in the prosecution of cases within Otero and Lincoln counties;

(14) the thirteenth judicial district attorney may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers and other state funds received from any political subdivision of the state or from Native American tribes to assist in the prosecution of cases;

(15) the legal services program of the attorney general may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds for unexpected litigation costs related to civil and criminal prosecution, utility rate cases and consumer protection cases provided that the revenue expended shall be solely from settlements of consumer-related issues;

(16) the office of the state auditor may request budget increases up to three hundred thousand dollars (\$300,000) from other state funds to assist local public bodies with meeting financial reporting requirements or to assist in special investigations;

(17) the state investment council may request budget increases up to six million dollars (\$6,000,000) from other state funds for investment-related management fees and to meet emergencies or physical plant failures that might impact the health and safety of workers or visitors to the agency;

(18) the program support, benefits and risk programs of the public school insurance authority may request budget increases from internal service funds/interagency transfers, other state funds and fund balances;

(19) the program support of the retiree health care authority may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds and internal service funds/interagency transfers for information technology services and the healthcare benefits administration program may request budget increases from other state funds;

(20) the procurement services program of the general services department may request category transfers up to eighty-three thousand three hundred dollars (\$83,300) to and from the other financing uses category, may request budget increases up to three hundred thousand dollars (\$300,000) from other state funds for operating expenses and certification of procurement officers, the facilities management program may request category transfers up to two hundred twenty-four thousand dollars (\$224,000) to and from the other financing uses category and may request budget increases in an amount not to exceed three percent of capital outlay appropriations for capital projects subject to its jurisdiction from administrative fees collected pursuant to Section 15-3B-10 NMSA 1978 contingent on enactment of legislation of the first session of the fifty-second legislature that amends Section 15-3B-10 NMSA 1978 to increase the administrative fee;

(21) the educational retirement board may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or physical plant failures that might impact the health and safety of workers or visitors to the agency;

(22) the public defender department may request budget increases up to six hundred thousand dollars (\$600,000) from internal service funds/interagency transfers and other state funds;

(23) the department of information technology may request budget increases up to two million dollars (\$2,000,000) from fund balances for telecommunication, information processing and the statewide human resources, accounting and management reporting system, may request budget increases up to five million dollars (\$5,000,000) from fund balances in the statewide human resources, accounting and management reporting system equipment replacement fund for replacement of equipment, may request budget increases up to ten percent of internal service funds/interagency transfers appropriated in Section 4 of the General Appropriation Act of 2015 to support existing or new services and may request budget increases from fund balances up to the amount of depreciation expense reported in the notes to the financial statements of the agency's independent audit for the fiscal year ended June 30, 2015 to acquire and replace capital equipment and associated software used to provide enterprise services;

(24) the public employees retirement association may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or physical plant failures that might impact the health and safety of workers or visitors to the agency;

(25) the personnel board may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers from fees collected from other agencies with less than one hundred employees that contract with the personnel board for human resource services;

(26) notwithstanding the provisions of Section 8-8-9.1 NMSA 1978 or other substantive law, ~~[the public regulation commission may request budget increases up to two hundred fifty thousand dollars (\$250,000) from the training academy use fee fund to cover a shortfall in the personal services and employee benefits category in any program and]~~ the public safety program of the public regulation commission may request budget increases up to five hundred thousand dollars (\$500,000) from the training academy use fee fund for the fire marshal division's firefighter training academy; *LINE-ITEM VETO*

(27) the patient's compensation fund program of the office of superintendent of insurance may request budget increases up to five million dollars (\$5,000,000) from fund balances for patients' compensation settlements and court-ordered payments;

(28) the New Mexico medical board may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for the administrative hearing and litigation process;

(29) the preservation program of the department of cultural affairs may request budget increases from other state funds for archaeological services or historic preservation services;

(30) the department of game and fish may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds from the game protection fund for emergencies;

(31) the energy, minerals and natural resources department may request category transfers to and from other financing uses from internal service funds/interagency transfers from the department of environment or the office of the state engineer from federal funds to allow programs to maximize the use of federal grants, the oil and gas conservation program may request budget increases from internal service funds/interagency transfers from funds received from the department of environment for the water quality program, the healthy forests program may request budget increases from internal service funds/interagency transfers from the New Mexico youth conservation corps fund for projects approved by the New Mexico youth conservation corps commission, the healthy forests program may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for costs associated with the conservation planting revolving fund and the renewable energy and energy efficiency program may request budget increases from internal service funds/interagency transfers and other state funds for implementing renewable energy and energy efficiency program projects;

(32) the New Mexico youth conservation corps may request category transfers to and from the other financing uses category for awards issued to other state agencies and operational costs;

(33) the commissioner of public lands may request budget increases up to fifty thousand dollars (\$50,000) from the state lands maintenance fund to cover additional litigation expenses and may request budget increases up to fifty thousand dollars (\$50,000) from the state lands maintenance fund for travel expenses incurred while performing audits of companies that pay royalties to the state;

(34) the interstate stream commission of the office of the state engineer may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds from the Ute dam construction fund to remove boat docks, modify the outlet works, start repairing the spillway or other operational requirements needed at Ute reservoir, may request budget increases up to three hundred thousand dollars (\$300,000) from the irrigation works construction fund for any additional operation and maintenance costs associated with the Pecos settlement compliance, may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from boat dock revenue deposited into the Ute dam construction fund to transfer to the state parks program of the energy, minerals and natural resources department for inspection, enforcement and administration of boat docks at Ute reservoir per the memorandum of understanding between the two agencies, may request budget increases up to two hundred thousand dollars (\$200,000) from the federal bureau of reclamation for reimbursement for operation and maintenance costs of the Vaughn pipeline and may request budget increases up to forty thousand dollars (\$40,000) from contractual services reimbursements for water modeling supply studies;

(35) the commission for the blind may request budget increases from other state funds to contract for the employment of blind or visually impaired persons, provided employment is pursuant to the federal Randolph-Sheppard Act, the federal Javits-Wagner-O'Day Act or the federal abilityone program;

(36) the independent living program of the division of vocational rehabilitation may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds for independent living services for the disabled;

(37) the miners' hospital of New Mexico may request budget increases from other state funds;

(38) the department of health may request budget increases from other state funds from health facility license and certification fees pursuant to Subsection G of Section 24-1-5 NMSA 1978, the public health program may request budget increases from other state funds related to private insurer payments, the developmental disabilities support program may request budget increases from other state funds related to private insurer payments for the family, infant, toddler program, the epidemiology and response program may request budget increases from internal service funds/interagency transfers and other state funds related to payments for conducting health-related surveys and analyzing data, the laboratory services program may request budget increases from other state funds, the medical cannabis program may request budget increases from other state funds from medical cannabis program

revenue and the developmental disabilities program may request transfers up to one million one hundred thousand dollars (\$1,100,000) among categories to improve the developmental disabilities waiver program infrastructure and increase capacity and quality in the developmental disabilities community provider system;

(39) the department of environment may request program transfers up to five hundred thousand dollars (\$500,000) between programs, the resource protection program may request budget increases from other state funds from the corrective action fund for claims, may request budget increases from other state funds and internal services funds/interagency transfers for responsible party payments, may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers to coordinate multi-state Rio Grande salinity management programs and provide technical support for potential litigation on interstate streams and water issues and the environmental health program may request budget increases from other state funds and internal service funds/interagency transfers from the hazardous waste emergency fund for emergencies;

(40) the children, youth and families department may request program transfers up to one million five hundred thousand dollars (\$1,500,000), the juvenile justice facilities program may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from other state funds from distributions from the land grant permanent and land income funds, may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds from the juvenile continuum grant fund, may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds from the juvenile community corrections grant fund and may transfer up to twenty thousand dollars (\$20,000) to the juvenile public safety advisory board;

(41) the department of military affairs may request budget increases up to forty-eight thousand dollars (\$48,000) from internal service funds/interagency transfers that are federal in origin from the New Mexico public education department national school lunch program for the New Mexico youth challenge academy and 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 or the New Mexico youth challenge academy;

(42) the corrections department may request program transfers up to three million dollars (\$3,000,000) between programs, program support may request budget increases up to one million dollars (\$1,000,000) from internal service funds/interagency transfers and other state funds from social security administration incentive payments and additional payments received for international cadet training classes, the inmate management and control program may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds from land grant permanent and land income funds and inmate work crew income and the community offender management

program may request budget increases up to five hundred thousand dollars (\$500,000) from fund balances;

(43) the department of public safety may request budget increases up to one million dollars (\$1,000,000) from other state funds for project costs associated with the weight distance tax identification permit fund to include the oversize/overweight permitting system, may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds for costs associated with public safety special projects and activities with other state agencies, local governments and other law enforcement entities, may request budget increases up to three hundred fifty thousand dollars (\$350,000) from concealed handgun carry fund balances to support the enforcement of the Concealed Handgun Carry Act and may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds for costs to support the state chemistry laboratories;

(44) the department of transportation may request budget increases up to thirty million dollars (\$30,000,000) from other state funds and fund balances to meet federal matching requirements, for debt service and related costs, intergovernmental agreements, lawsuits and construction- and maintenance-related costs and may request program transfers between the programs and infrastructure program and the transportation and highway operations program for costs related to engineering, construction and maintenance activities;

(45) the public education department may request budget increases up to twenty thousand dollars (\$20,000) from the school transportation training fund to provide public school transportation workshops and training.

F. The department of military affairs, the homeland security and emergency management department, the department of public safety and the energy, minerals and natural resources department may request budget increases from the general fund as required by an executive order declaring a disaster or emergency.

Chapter 101 Section 10 Laws 2015

Section 10. **APPROPRIATION ADJUSTMENTS.**--The general fund appropriations in Section 4 of the General Appropriation Act of 2015 shall be reduced by two million four hundred thousand dollars (\$2,400,000) to reflect general services department group insurance contribution reductions for the employee group health benefits program. To effectuate the reductions, the state budget division of the department of finance and administration shall reduce the operating budgets of state agencies accordingly.

Chapter 101 Section 11 Laws 2015

Section 11. **FUND TRANSFERS.**--

A. Twenty million dollars (\$20,000,000) is transferred in fiscal year 2016 from the operating reserve to the appropriation contingency fund.

B. Five million five hundred thousand dollars (\$5,500,000) is transferred in fiscal year 2016 from balances in the state government unemployment compensation reserve fund from revenues that originated from other than federal sources to the appropriation account of the general fund.

C. Notwithstanding the provisions of Sections 6-4-9, 6-4-10 and 6-4-11 NMSA 1978 or other substantive law, the department of finance and administration shall transfer an amount from the tobacco settlement permanent fund to the tobacco settlement program fund equal to the difference between appropriations in Section 4 of the General Appropriation Act of 2015 made from the tobacco settlement program fund and the amount transferred to the tobacco settlement program fund pursuant to Paragraph B of Section 6-4-9 NMSA 1978 in fiscal year 2016 to fully fund appropriations made from the tobacco settlement program fund contained in Section 4 of the General Appropriation Act of 2015.

Chapter 101 Section 12 Laws 2015

Section 12. TRANSFER AUTHORITY.--

A. If revenue and transfers to the general fund at the end of fiscal year 2015 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 operating reserve, provided that the total transferred pursuant to this subsection shall not exceed one hundred forty million dollars (\$140,000,000). This transfer is in addition to the transfer provided in Subsection B of Section 13 of Chapter 63 of Laws 2014.

B. If revenue and transfers to the general fund at the end of fiscal year 2016 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 operating reserve provided that the total transferred pursuant to this subsection shall not exceed sixty-five million dollars (\$65,000,000).

C. The department of finance and administration is authorized to transfer seventy-three million seven hundred forty-five thousand nine hundred dollars (\$73,745,900) from the operating reserve to the human services department for prior year medicaid shortfalls.

Chapter 101 Section 13 Laws 2015

Section 13. **CONTINGENT APPROPRIATIONS.--**The following amounts are appropriated from the general fund as indicated for the purposes specified for fiscal year

2016 unless otherwise indicated, contingent on certification by the state gaming representative to the secretary of the department of finance and administration that a notice has been published in the federal register of the U.S. secretary of the interior's approval or failure to act that is considered to be approval pursuant to 25 U.S.C. 2710 of a state-tribal class III gaming compact approved by the first session of the fifty-second legislature. Unless otherwise indicated, any unexpended balances of appropriations made in this section remaining at the end of fiscal year 2016 shall revert to the general fund.

~~[(1) ADMINISTRATIVE OFFICE OF THE COURTS 1,800.0~~

~~For expenditure in fiscal years 2016 and 2017 to complete construction, furnish and equip the Mora county courthouse complex in Mora county. The administrative office of the courts shall report on the progress of the project to the department of finance and administration and the~~

~~legislative finance committee. Any unexpended balances remaining at the end of fiscal year 2017 shall revert to the general fund.] LINE-ITEM VETO~~

(2) ADMINISTRATIVE OFFICE OF THE COURTS 500.0

For drug courts statewide.

(3) ADMINISTRATIVE OFFICE OF THE COURTS 200.0

For personnel and training to implement court-ordered mental health treatment and proceedings contingent on enactment of Senate Bill 53 or similar legislation of the first session of the fifty-second legislature.

950.0

To establish or expand regional crisis stabilization centers.

350.0

For behavioral health transitional and supportive housing.

(6) HUMAN SERVICES DEPARTMENT 1,000.0

To establish or expand evidence-based behavioral health services [~~through two or more behavioral health investment zones~~] that take into account the risks and needs of different geographic areas of the state, including three hundred thousand dollars (\$300,000) for an investment zone [~~in McKinley county~~]. The human services department shall identify investment zones based on epidemiological data and other source data that identify the combined incidence of mortality related to alcohol use, drug

overdose and suicide and any other behavioral health data deemed necessary. *LINE-ITEM VETO*

400.0

To the New Mexico department of agriculture to double the buying power of supplemental nutrition assistance program participants through a statewide program to buy fresh fruits and vegetables at New Mexico farmers' markets.

Chapter 101 Section 14 Laws 2015

Section 14. **SEVERABILITY.**--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

HAFC/House Bills 2 and 4, aa, partial veto

Approved April 9, 2015

LAWS 2015, CHAPTER 102

AN ACT

RELATING TO LIQUOR CONTROL; REVISING THE DEFINITION OF "ALCOHOLIC BEVERAGE" TO INCLUDE FROZEN AND POWDERED ALCOHOL; ADDING DEFINITIONS FOR "CIDER" AND "GROWLER"; REVISING PROVISIONS RELATING TO LIQUOR LICENSE APPLICATION REQUIREMENTS, PUBLIC HEARINGS, THE SERVICE, SALE AND PRODUCTION OF ALCOHOLIC BEVERAGES AND THE TRANSFER OF LICENSES; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2001, CHAPTER 248, SECTION 2.

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

Chapter 102 Section 1 Laws 2015

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

"60-3A-1. SHORT TITLE.--Chapter 60, Articles 3A, 4B, 5A, 6A, 6B, 6C, 6E, 7A, 7B and 8A NMSA 1978 may be cited as the "Liquor Control Act"."

Chapter 102 Section 2 Laws 2015

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

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

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

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

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

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

E. "club" means:

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

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

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

(2) an airline passenger membership club operated by an air common carrier that maintains or operates a clubroom at an international airport terminal. As used in this paragraph, "air common carrier" means a person engaged in

regularly scheduled air transportation between fixed termini under a certificate of public convenience and necessity issued by the federal aviation administration;

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

G. "department" means the special investigations division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcohol and gaming division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

H. "director" means the director of the special investigations division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcohol and gaming division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

V. "restaurant" means an establishment having a New Mexico resident as a proprietor or manager that is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided that "restaurant" does not include establishments as defined in rules promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;

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

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

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

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

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

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

CC. "winer" means a winegrower; and

DD. "winery" means a facility in which a winegrower manufactures and stores wine."

Chapter 102 Section 3 Laws 2015

SECTION 3. Section 60-6A-6.1 NMSA 1978 (being Laws 2011, Chapter 110, Section 3) is amended to read:

"60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

A. In any local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a craft distiller's license subject to the following conditions:

(1) the applicant submits evidence to the department that the applicant has a valid and appropriate permit issued by the federal government to be a craft distiller;

(2) renewal of the license shall be conditioned upon:

(a) no less than sixty percent of the gross receipts from the sale of spirituous liquors for the preceding twelve months of the licensee's operation being derived from the sale of spirituous liquors produced by the licensee;

(b) the manufacture of no less than one thousand proof gallons of spirituous liquors per license year at the licensee's premises; and

(c) submission to the department by the licensee of a report showing the number of proof gallons of spirituous liquors manufactured by the licensee at the licensee's premises and the annual gross receipts from the sale of spirituous liquors produced by the licensee and from the licensee's sale of distilled spirituous liquors produced by other New Mexico licensed craft distillers;

(3) a craft distiller's license shall not be transferred from person to person or from one location to another;

(4) the provisions of Section 60-6A-18 NMSA 1978 shall not apply to a craft distiller's license; and

(5) nothing in this section shall prevent a craft distiller from receiving other licenses pursuant to the Liquor Control Act.

B. A person to whom a craft distiller's license is issued pursuant to this section may do any of the following:

(1) manufacture or produce spirituous liquors, including aging, filtering, blending, mixing, flavoring, coloring, bottling and labeling;

(2) store, transport, import or export spirituous liquors;

(3) sell only spirituous liquors that are packaged by or for the craft distiller to a person holding a wholesaler's license, a craft distiller's license or a manufacturer's license;

(4) deal in warehouse receipts for spirituous liquors;

(5) buy spirituous liquors from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, flavoring, mixing or bottling of spirituous liquors;

(6) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;

(7) conduct spirituous liquor tastings and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale, spirituous liquors of the craft distiller's own production or spirituous liquors produced by

another New Mexico craft distiller or New Mexico manufacturer on the craft distiller's premises; and

(8) at no more than three other locations off the craft distiller's premises, after the craft distiller has paid the applicable fee for a craft distiller's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a craft distiller's off-premises permit for each off-premises location, conduct spirituous liquor tastings and sell by the glass, or in unbroken packages for consumption and not for resale, spirituous liquors produced and bottled by or for the craft distiller or spirituous liquors produced and bottled by or for another New Mexico craft distiller or manufacturer.

C. For a public celebration off the craft distiller's premises in any local option district permitting the sale of alcoholic beverages, a craft distiller shall pay ten dollars (\$10.00) to the department for a "craft distiller's public celebration permit" to be issued under rules adopted by the director. Upon request, the department may issue to a craft distiller a public celebration permit for a location at the public celebration that is to be shared with other craft distillers, small brewers and winegrowers. As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or other activity held on an intermittent basis.

D. Sales and tastings of spirituous liquors authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of noon and midnight on Sunday and shall conform to the limitations regarding Christmas day sales and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday as set forth in Section 60-7A-1 NMSA 1978."

Chapter 102 Section 4 Laws 2015

SECTION 4. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended) is amended to read:

"60-6A-11. WINEGROWER'S LICENSE.--

A. A person in this state who produces wine is exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to rules adopted by the director; provided, however, that, for purposes of determining annual production and compliance with the fifty percent New Mexico grown provision of this subsection, the calculation of a winegrower's overall annual production

of wine shall not include the winegrower's production of wine for out-of-state wine producer license holders.

B. A person issued a winegrower's license pursuant to this section may do any of the following:

(1) manufacture or produce wine, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine is manufactured or produced for a winegrower or an out-of-state wine producer holding a permit issued by the federal alcohol tax unit of the internal revenue service and a valid license in a state that authorizes the wine producer to manufacture, produce, store or sell wine;

(2) store, transport, import or export wines;

(3) sell wines to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's or wine exporter's license or to a winegrower's agent;

(4) transport not more than two hundred cases of wine in a calendar year to another location within New Mexico by common carrier;

(5) deal in warehouse receipts for wine;

(6) sell wines in other states or foreign jurisdictions to the holders of a license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine;

(7) buy wine or distilled wine products from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, mixing or bottling of wines;

(8) conduct wine tastings and sell, by the glass or by the bottle or sell in unbroken packages for consumption off the premises but not for resale, wine of the winegrower's own production or wine produced by another New Mexico winegrower on the winegrower's premises;

(9) at no more than three off-premises locations, conduct wine tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine of the winegrower's own production or wine produced by another New Mexico winegrower after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and the department rules for new liquor license locations;

(10) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;

(11) at public celebrations on or off the winegrower's premises, after the winegrower has paid the applicable fees and been issued the appropriate permit, to conduct wine tastings, sell by the glass or the bottle or sell in unbroken packages, for consumption off premises but not for resale, wine produced by or for the winegrower; and

(12) sell wine or cider in a growler for consumption off premises.

C. Sales of wine as provided for in this section shall be permitted between the hours of 7:00 a.m. and midnight Monday through Saturday, and the holder of a winegrower's license or public celebration permit may conduct wine tastings and sell, by the glass or bottle or in unbroken packages for consumption off premises but not for resale, wine of the winegrower's own production on the winegrower's premises between the hours of 12:00 noon and midnight on Sunday.

D. At public celebrations off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "winegrower's public celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other winegrowers and small brewers. As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.

E. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine produced or blended:

(1) less than five thousand gallons per year, twenty-five dollars (\$25.00) per year;

(2) between five thousand and one hundred thousand gallons per year, one hundred dollars (\$100) per year; and

(3) over one hundred thousand gallons per year, two hundred fifty dollars (\$250) per year."

Chapter 102 Section 5 Laws 2015

SECTION 5. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended by Laws 2001, Chapter 248, Section 2 and by Laws 2001, Chapter 260, Section 2) is amended to read:

"60-6A-26.1. SMALL BREWER'S LICENSE.--

A. In a local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a small brewer's license.

B. A small brewer's license authorizes the person to whom it is issued to:

- (1) manufacture or produce beer;
- (2) package, label and export beer, whether manufactured, bottled or produced by the licensee or any other person;
- (3) sell only beer that is packaged by or for the licensee to a person holding a wholesaler's license or a small brewer's license;
- (4) deal in warehouse receipts for beer;
- (5) conduct beer tastings and sell for consumption on or off premises, but not for resale, beer produced and bottled by, or produced and packaged for, the licensee or produced and bottled by or for another New Mexico small brewer on the small brewer's premises;
- (6) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;
- (7) at public celebrations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's public celebration permit, conduct tastings and sell by the glass or in unbroken packages, but not for resale, beer produced and bottled by or for the small brewer;
- (8) at no more than three other locations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a small brewer's off-premises permit for each off-premises location, conduct beer tastings and sell by the glass or in unbroken packages for consumption off the small brewer's off-premises location, but not for resale, beer produced and bottled by or for the small brewer or beer produced and bottled by or for another New Mexico small brewer;
- (9) allow members of the public, on the licensed premises and under the direct supervision of the licensee, to manufacture beer for personal consumption and not for resale using the licensee's equipment and ingredients; and
- (10) sell beer in a growler for consumption off premises.

C. At public celebrations off the small brewer's premises in a local option district permitting the sale of alcoholic beverages, the holder of a small brewer's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "small brewer's public celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a small brewer's license a public celebration permit for a location at the public celebration that is to be shared with other small brewers and winegrowers. As used in this subsection, "public celebration" includes a state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.

D. Sales and tastings of beer authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of noon and midnight on Sunday and shall conform to the limitations regarding Christmas and voting-day sales found in Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday."

Chapter 102 Section 6 Laws 2015

SECTION 6. Section 60-6B-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 40) is amended to read:

"60-6B-4. ISSUANCE OR TRANSFER OF LICENSE--APPROVAL OF APPROPRIATE GOVERNING BODY.--

A. Prior to the approval of the issuance of a new license, and prior to the approval of a transfer permitted by Section 60-6B-3 or 60-6B-12 NMSA 1978, the director shall notify the governing body of the director's preliminary approval of the issuance or transfer of the license. Notice to the governing body shall be by certified mail.

B. A governing body that has received a notice of preliminary approval of the issuance or transfer of a license from the department may approve or disapprove the issuance or transfer of the license in accordance with the provisions of this section.

C. Within forty-five days after receipt of a notice of preliminary approval from the department, the governing body shall hold a public hearing on the question of whether the department should approve the proposed issuance or transfer.

D. The governing body shall give notice of the public hearing, as required by Subsection C of this section, and the notice shall:

(1) be published at least twice, with the initial notice published at least thirty days before the hearing, in a newspaper of general circulation within the territorial limits of the governing body;

(2) in addition to required print publication, be published on a local option district's web site, if the district has a web site;

(3) set forth:

(a) the date, time and place of the hearing;

(b) the name and address of the licensee;

(c) the action proposed to be taken by the department;

(d) the location of the licensee's premises; and

(e) such other information as may be required by the department; and

(4) be sent by certified mail to the applicant.

E. The governing body may designate a hearing officer to conduct the hearing. A record shall be made of the hearing.

F. The governing body may disapprove the issuance or transfer of the license if:

(1) the proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico;

(2) the issuance or transfer would be in violation of a zoning or other ordinance of the governing body; or

(3) the issuance or transfer would be detrimental to the public health, safety or morals of the residents of the local option district.

G. Within thirty days after the public hearing, the governing body shall notify the department as to whether the governing body has approved or disapproved the proposed issuance or transfer of the license. If the governing body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the public hearing, the director may give final approval to the issuance or transfer of the license.

H. If the governing body disapproves the issuance or transfer of the license, it shall notify the department within the time required by Subsection G of this section setting forth the reasons for the disapproval. A copy of the minutes of the public hearing shall be submitted to the department by the governing body with the notice of disapproval. If the governing body disapproves of the issuance or transfer of the license, the director shall disapprove the issuance or transfer of the license.

I. If the governing body approves the issuance or transfer of the license, it shall notify the department within the time required by Subsection G of this section of its approval. If the governing body approves of the issuance or transfer of the license, the director shall approve the issuance or transfer of the license."

Chapter 102 Section 7 Laws 2015

SECTION 7. A new section of Chapter 60, Article 6B NMSA 1978 is enacted to read:

"LICENSED PRODUCTION FACILITIES--ALTERNATING PROPRIETORSHIP.--
With the approval of the alcohol and tobacco tax and trade bureau of the United States department of the treasury, and subject to the provisions of the Liquor Control Act, an alternating proprietorship may be established so that the manufacturing facilities and equipment of a person who holds:

A. a craft distiller's license may be used by another person who holds a craft distiller's license to manufacture or produce spiritous liquors;

B. a winegrower's license may be used by another person who holds a winegrower's license to manufacture or produce wine; and

C. a small brewer's license may be used by another person who holds a small brewer's license to manufacture or produce beer."

Chapter 102 Section 8 Laws 2015

SECTION 8. A new section of Chapter 60, Article 6B NMSA 1978 is enacted to read:

"LICENSED RETAILER COOPERATIVES.--

A. A person who holds a retailer's license or a person who holds a dispenser's license and who is allowed to sell alcoholic beverages in unbroken packages that are for consumption off premises and are not for resale may form a cooperative with one or more other persons who hold a retailer's or dispenser's license for the purposes of the advertisement or purchase of alcoholic beverages for retail sale.

B. The director shall promulgate rules to implement the provisions of this section, including the form for cooperative agreements."

Chapter 102 Section 9 Laws 2015

SECTION 9. Section 60-8A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 60) is amended to read:

"60-8A-1. UNFAIR COMPETITION--EXCLUSIVE OUTLET--TIED HOUSE--
CONSIGNMENT SALES.--It is unlawful for an importer, manufacturer, nonresident
licensee or any kind or class of wholesaler, directly or indirectly, or through an affiliate:

A. to require by agreement or otherwise that a wholesaler, retailer,
dispenser, canopy licensee, restaurant licensee, club licensee or governmental licensee
or its lessee engaged in the sale of alcoholic beverages in the state purchase alcoholic
beverages from that person to the exclusion in whole or in part of alcoholic beverages
sold or offered for sale by other persons;

B. to induce through any of the following means, a wholesaler, retailer,
dispenser, canopy licensee, restaurant licensee, club licensee or governmental licensee
or its lessee engaged in the sale of any kind or class of alcoholic beverages to purchase
alcoholic beverages from that person to the exclusion in whole or in part of alcoholic
beverages sold or offered for sale by other persons:

(1) by acquiring or holding, after the expiration of an existing
license, an interest in a license with respect to the premises of the wholesaler, retailer,
dispenser, canopy licensee, restaurant licensee, club licensee or governmental licensee
or its lessee;

(2) by acquiring an interest in real or personal property owned,
occupied or used by a wholesaler, retailer, dispenser, restaurant licensee or club
licensee in the conduct of the buying wholesaler's, retailer's, dispenser's, canopy
licensee's, restaurant licensee's, club licensee's or governmental licensee's or its
lessee's business, subject to exceptions that the director may prescribe, having due
regard for the free flow of commerce, the purposes of this subsection and established
trade customs not contrary to the public interest;

(3) by furnishing, giving, renting, lending or selling to a wholesaler,
retailer, dispenser, canopy licensee, restaurant licensee, club licensee or governmental
licensee or its lessee equipment, fixtures, signs, supplies, money, services or other
thing of value, subject to exceptions that the director may by regulation prescribe,
having due regard for public health and welfare, the quantity and value of the articles
involved and established trade customs not contrary to the public interest and the
purposes of this subsection;

(4) by paying or crediting the wholesaler, retailer, dispenser,
canopy licensee, restaurant licensee, club licensee or governmental licensee or its
lessee for advertising, display or distribution services;

(5) by requiring a wholesaler, retailer, dispenser, canopy licensee,
restaurant licensee, club licensee or governmental licensee or its lessee to take and
dispose of a certain quota or combination of alcoholic beverages; or

(6) by commercial bribery by offering or giving a bonus, premium or compensation to an officer, employee, agent or representative of a wholesaler, retailer, dispenser, canopy licensee, restaurant licensee, club licensee or governmental licensee or its lessee; or

C. to sell, offer for sale or contract to sell to a retailer, dispenser, canopy licensee, restaurant licensee, club licensee or governmental licensee or its lessee alcoholic beverages of any kind or class on consignment or under a conditional sale or on a basis other than a bona fide sale; provided that this subsection shall not apply to transactions involving solely the bona fide return of alcoholic beverages for ordinary and usual commercial reasons arising after the alcoholic beverages have been sold, including a return of alcoholic beverages that are at or near spoilage or expiration date or that were damaged by the wholesaler, but not including a return of alcoholic beverages that were damaged by any other licensee or any other licensee's employees or customers."

Chapter 102 Section 10 Laws 2015

SECTION 10. REPEAL.--Laws 2001, Chapter 248, Section 2 is repealed.

Chapter 102 Section 11 Laws 2015

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 243, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 103

AN ACT

RELATING TO EDUCATION; CLARIFYING THAT COUNSELORS ARE ELIGIBLE FOR LEVEL THREE LICENSURE SALARIES.

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

Chapter 103 Section 1 Laws 2015

SECTION 1. 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, COUNSELORS AND SCHOOL ADMINISTRATORS.--

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. With the adoption by the department of a highly objective uniform statewide standard of evaluation for level three-A teachers, the minimum salary for a level three-A teacher for a standard nine and one-half month contract shall be as follows:

- (1) for the 2003-2004 school year, thirty thousand dollars (\$30,000);
- (2) for the 2004-2005 school year, thirty-five thousand dollars (\$35,000);
- (3) for the 2005-2006 school year, forty thousand dollars (\$40,000);
- (4) for the 2006-2007 school year, forty-five thousand dollars (\$45,000); and
- (5) for the 2007-2008 school year, fifty thousand dollars (\$50,000).

D. The minimum salary for a counselor who holds a level three or three-A license as provided in the School Personnel Act and rules promulgated by the department shall be the same as provided for level three-A teachers pursuant to Subsection C of this section.

E. A level three-B license is a nine-year license granted to a school administrator who meets the qualifications for that level. Licenses may be renewed upon satisfactory annual demonstration of instructional leader and administrative competency.

F. The department shall grant a level three-B license to an applicant who:

(1) holds a level two license and meets the requirements for a level three-A license or who holds a current level two teacher's license and, for at least four years, has held the highest-ranked counselor license as provided in Chapter 22, Article 10A NMSA 1978 and rules promulgated by the department;

(2) holds a post-baccalaureate degree or national board for professional teaching standards certification;

(3) has satisfactorily completed department-approved courses in administration and a department-approved administration apprenticeship program; and

(4) demonstrates instructional leader competence required by the department and verified by the local superintendent through the highly objective uniform statewide standard of evaluation.

G. Beginning with the 2007-2008 school year, the minimum annual salary for a level three-B school principal or assistant school principal shall be fifty thousand dollars (\$50,000) multiplied by the applicable responsibility factor.

H. By the beginning of the 2008-2009 school year, the department shall adopt a highly objective uniform statewide standard of evaluation, which includes data sources linked to student achievement and educational plan for student success progress, for level three-B school principals and assistant school principals and rules for the implementation of that evaluation system linked to the level of responsibility at each school level."

House Bill 318, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 104

AN ACT

RELATING TO HOMEOWNER ASSOCIATIONS; LIMITING HOMEOWNER ASSOCIATIONS FROM ENACTING OR ENFORCING CERTAIN RESTRICTIONS RELATING TO FLAG FLYING.

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

Chapter 104 Section 1 Laws 2015

SECTION 1. Section 47-16-1 NMSA 1978 (being Laws 2013, Chapter 122, Section 1) is amended to read:

"47-16-1. SHORT TITLE.--Chapter 47, Article 16 NMSA 1978 may be cited as the "Homeowner Association Act"."

Chapter 104 Section 2 Laws 2015

SECTION 2. A new section of the Homeowner Association Act is enacted to read:

"FLAGS.--An association shall not adopt or enforce a restriction related to the flying or displaying of flags that is more restrictive than the applicable federal or state law or county or municipal ordinance."

Chapter 104 Section 3 Laws 2015

SECTION 3. Section 47-16-15 NMSA 1978 (being Laws 2013, Chapter 122, Section 15) is amended to read:

"47-16-15. APPLICABILITY.--

A. Except as provided in Subsections B and C of this section, the Homeowner Association Act shall apply to all homeowner associations created and existing within this state.

B. Sections 47-16-9, 47-16-10 and 47-16-14 NMSA 1978 do not apply to homeowner associations created before July 1, 2013; provided that any amendment to the community documents of an association created before July 1, 2013 shall comply with the Homeowner Association Act.

C. Except as provided in Sections 47-16-4 and 47-16-8 NMSA 1978 and Section 2 of this 2015 act, the Homeowner Association Act does not invalidate existing provisions of the articles of incorporation, declaration, bylaws or rules of a homeowner association created before July 1, 2013.

D. The Homeowner Association Act does not apply to a condominium governed by the Condominium Act."

Chapter 104 Section 4 Laws 2015

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 320

Approved April 9, 2015

LAWS 2015, CHAPTER 105

AN ACT

RELATING TO LIQUOR CONTROL; REVISING THE LIQUOR CONTROL ACT TO PROVIDE THAT WINEGROWERS MAY MAKE SALES OF WINE VIA INTERNET WEB SITES.

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

Chapter 105 Section 1 Laws 2015

SECTION 1. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended) is amended to read:

"60-6A-11. WINEGROWER'S LICENSE.--

A. Exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license, is a person in this state who produces wine. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to rules adopted by the director; provided, however, that, for purposes of determining annual production and compliance with the fifty percent New Mexico grown provision of this subsection, the calculation of a winegrower's overall annual production of wine shall not include the winegrower's production of wine for out-of-state wine producer license holders.

B. A person issued a winegrower's license pursuant to this section may do any of the following:

(1) manufacture or produce wine, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine is manufactured or produced for a winegrower or an out-of-state wine producer holding a permit issued by the federal alcohol tax unit of the internal revenue service and a valid license in a state that authorizes the wine producer to manufacture, produce, store or sell wine;

(2) store, transport, import or export wines;

(3) sell wines to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's or wine exporter's license or to a winegrower's agent;

(4) transport not more than two hundred cases of wine in a calendar year to another location within New Mexico by common carrier;

(5) deal in warehouse receipts for wine;

(6) sell wines in other states or foreign jurisdictions to the holders of a license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine;

(7) buy wine or distilled wine products from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, mixing or bottling of wines;

(8) conduct wine tastings and sell, by the glass or by the bottle or sell in unbroken packages for consumption off the premises but not for resale, wine of the winegrower's own production or wine produced by another New Mexico winegrower on the winegrower's premises;

(9) at no more than three off-premises locations, conduct wine tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine of the winegrower's own production or wine produced by another New Mexico winegrower after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and the department rules for new liquor license locations;

(10) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;

(11) at public celebrations on or off the winegrower's premises, after the winegrower has paid the applicable fees and been issued the appropriate permit, to conduct wine tastings, sell by the glass or the bottle or sell in unbroken packages, for consumption off premises but not for resale, wine produced by or for the winegrower; and

(12) in accordance with the provisions of this section that relate to the sale of wine, accept and fulfill an order for wine that is placed via an internet web site, whether the financial transaction related to the order is administered by the licensee or the licensee's agent.

C. Sales of wine as provided for in this section shall be permitted between the hours of 7:00 a.m. and midnight Monday through Saturday, and the holder of a winegrower's license or public celebration permit may conduct wine tastings and sell, by the glass or bottle or in unbroken packages for consumption off premises but not for resale, wine of the winegrower's own production on the winegrower's premises between the hours of 12:00 noon and midnight on Sunday.

D. At public celebrations off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "winegrower's public celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other winegrowers and small brewers. As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.

E. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine produced or blended:

(1) less than five thousand gallons per year, twenty-five dollars (\$25.00) per year;

(2) between five thousand and one hundred thousand gallons per year, one hundred dollars (\$100) per year; and

(3) over one hundred thousand gallons per year, two hundred fifty dollars (\$250) per year."

Chapter 105 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 489

Approved April 9, 2015

LAWS 2015, CHAPTER 106

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL LEASE PURCHASE ACT TO CLARIFY THE DEFINITION OF "GOVERNING BODY"; ESTABLISHING THE RELATIONSHIP BETWEEN A GOVERNING BODY AND A SCHOOL DISTRICT OR A CHARTER SCHOOL IN THE ACQUISITION OF PUBLIC SCHOOL FACILITIES PURSUANT TO LEASE PURCHASE ARRANGEMENTS; REPEALING A SECTION OF THE NMSA 1978.

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

Chapter 106 Section 1 Laws 2015

SECTION 1. Section 22-26A-3 NMSA 1978 (being Laws 2007, Chapter 173, Section 3) is amended to read:

"22-26A-3. DEFINITIONS.--As used in the Public School Lease Purchase Act:

A. "financing agreement" or "lease purchase arrangement" means an agreement 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, which periodic lease payments composed of principal and interest components are to be paid to the holder of the agreement and pursuant to which the owner of the building or other real property may retain title to or a security interest in the building or other real property and may agree to release the security interest or transfer title to the building or other real property to the school district for nominal consideration after payment of the final periodic lease payment; and

B. "governing body" means:

(1) the governing structure of a charter school, as set forth in its approved charter; or

(2) a local school board as the governing structure of a school district."

Chapter 106 Section 2 Laws 2015

SECTION 2. Section 22-26A-4 NMSA 1978 (being Laws 2007, Chapter 173, Section 4, as amended) is amended to read:

"22-26A-4. NOTICE OF PROPOSED LEASE PURCHASE ARRANGEMENT--APPROVAL OF DEPARTMENT.--

A. When a governing body determines, pursuant to Subsection B of Section 22-26A-6 NMSA 1978, that a lease purchase arrangement is in the best interest of the school district or the charter school, the governing body shall forward to the department a copy of the proposed lease purchase arrangement and the source of funds that the governing body has identified to make payments due under the lease purchase arrangement.

B. A governing body shall not enter into a lease purchase arrangement without the approval of the department."

Chapter 106 Section 3 Laws 2015

SECTION 3. Section 22-26A-5 NMSA 1978 (being Laws 2007, Chapter 173, Section 5, as amended) is amended to read:

"22-26A-5. LEASE PURCHASE ARRANGEMENTS--TERMS.--Lease purchase arrangements:

A. may have payments payable annually or more frequently as determined by the governing body;

B. may be subject to prepayment at the option of the governing body at such time or times and upon such terms and conditions with or without the payment of such premium or premiums as determined by the governing body;

C. may have a final payment date not exceeding thirty years after the date of execution;

D. may be acquired or executed at a public or negotiated sale;

E. may be entered into between the governing body and the owner of the building or other real property who may be a trustee or other person that issues or sells certificates of participation or other interests in the payments to be made under the lease purchase arrangement, the proceeds of which may be used to acquire the building or other real property;

F. shall specify the principal and interest component of each payment made under the lease purchase arrangement; provided that the net effective interest rate shall not exceed the maximum permitted by the Public Securities Act;

G. shall provide that, if the school district or charter school makes capital improvements to the building or other real property, there shall be no change in the lease payments or final payment without a written amendment approved by the department;

H. shall provide that, if state, school district or charter school funds, above those required for lease payments, are used to construct or acquire improvements, the cost of the improvements shall constitute a lien on the real estate in favor of the school district or charter school and then, if the lease purchase arrangement is terminated prior to the final payment and the release of the security interest or the transfer of title at the option of the school district or charter school:

(1) the school district or charter school may foreclose on the real estate lien; or

(2) the current market value of the building or other real property at the time of termination, as determined by an independent appraisal certified by the

taxation and revenue department, in excess of the outstanding principal due under the lease purchase arrangement shall be paid to the school district or charter school;

I. shall provide that there is no legal obligation for the school district or charter school to continue the lease purchase arrangement from year to year or to purchase the building or other real property;

J. shall provide that the lease purchase arrangement shall be terminated if sufficient money is not available to meet any current lease payment;

K. shall provide that, with the prior approval of the lessor, which shall not be unreasonably withheld, the lease purchase arrangement is assignable, without cost to the school district, or charter school and with all of the rights and benefits of its predecessor in interest being transferred to the assignee, to:

(1) a school district or charter school; or

(2) the state or one of its institutions, instrumentalities or other political subdivisions; and

L. shall provide that amendments to the lease purchase arrangement, except amendments that would improve the building or other real property without additional financial obligations to the school district or charter school, shall be approved by the department."

Chapter 106 Section 4 Laws 2015

SECTION 4. Section 22-26A-6 NMSA 1978 (being Laws 2007, Chapter 173, Section 6, as amended) is amended to read:

"22-26A-6. AUTHORIZING LEASE PURCHASE ARRANGEMENTS--
RESOLUTION.--

A. If a governing body proposes to acquire a building or other real property through a lease purchase arrangement, it shall comply with the requirements of this section and the provisions of the Open Meetings Act.

B. At a regular meeting or at a special meeting called for the purpose of considering the acquisition of a building or other real property through a lease purchase arrangement, a governing body shall:

(1) make a determination of the necessity for acquiring the building or other real property through a lease purchase arrangement;

(2) determine the estimated cost of the buildings or other real property needed;

(3) review a summary of the terms of the proposed lease purchase arrangement;

(4) identify the source of funds for the lease purchase payments;

(5) if obtaining all or part of the funds needed requires or anticipates the imposition of a property tax, determine the estimated rate of the tax and what, if any, the percentage increase in property taxes will be for real property owners in the school district; and

(6) if the governing body determines that the lease purchase arrangement is in the best interest of the school district or charter school, forward a copy of the arrangement to the department pursuant to Section 22-26A-4 NMSA 1978.

C. After receiving department approval of the lease purchase arrangement, the governing body may adopt a final resolution approving the lease purchase of the building or other real property.

D. If a local school board finds that obtaining all or part of the funds needed for a lease purchase arrangement requires the imposition of a property tax, the board may adopt a resolution to be presented to the voters pursuant to Section 22-26A-8 NMSA 1978.

E. If the governing body of a charter school finds that obtaining all or part of the necessary funds requires the imposition of a property tax, the local school board of the school district in which the charter school is located may adopt a resolution to be presented to the voters, pursuant to Section 22-26A-8 NMSA 1978; provided that the governing body of the charter school has notified the local school board that the charter school has been approved to enter into a lease purchase arrangement and has identified revenue from the proposed tax as a necessary source of funds. The local school board:

(1) shall include the tax revenue needed by the charter school in the resolution if the school's charter has been renewed at least once; and

(2) may include the tax revenue needed by the charter school in the resolution if the charter school is a locally chartered charter school prior to its first renewal term.

F. If a local school board adopts a resolution that includes tax revenue for a charter school, and, if the tax is approved in an election pursuant to Sections 22-26A-8 through 22-26A-12 NMSA 1978, the local school board shall distribute an amount of the tax revenue, as established in its resolution, to the charter school to be used in the lease purchase arrangement.

G. The local school board shall not adopt a resolution for or approve a lease purchase arrangement for a term that exceeds thirty years."

Chapter 106 Section 5 Laws 2015

SECTION 5. Section 22-26A-7 NMSA 1978 (being Laws 2007, Chapter 173, Section 7, as amended) is amended to read:

"22-26A-7. PAYMENTS UNDER LEASE PURCHASE ARRANGEMENTS.--A school district or charter school may apply any legally available funds to acquire or improve buildings or other real property subject to a lease purchase arrangement or to the payments due under a lease purchase arrangement, including any combination of:

- A. money from the school district's or charter school's general fund;
- B. investment income actually received from investments;
- C. proceeds from taxes imposed pursuant to the Public School Capital Improvements Act or the Public School Buildings Act;
- D. loans, grants or lease payments received from the public school capital outlay council pursuant to the Public School Capital Outlay Act;
- E. state distributions to the school district or charter school pursuant to the Public School Capital Improvements Act;
- F. fees or assessments received by the school district;
- G. proceeds from the sale of real property and rental income received from the rental or leasing of school district or charter school property;
- H. grants from the federal government as assistance to those areas affected by federal activity authorized in accordance with Title 20 of the United States Code, commonly known as "PL 874 funds" or "impact aid";
- I. revenues from the tax authorized pursuant to Sections 22-26A-8 through 22-26A-12 NMSA 1978, if proposed by the local school board and approved by the voters; and
- J. legislative appropriations."

Chapter 106 Section 6 Laws 2015

SECTION 6. Section 22-26A-13 NMSA 1978 (being Laws 2007, Chapter 173, Section 13) is amended to read:

"22-26A-13. PUBLICATION OF NOTICE--VALIDATION.--

A. After adoption of a resolution approving a lease purchase arrangement, the governing body shall publish notice of the adoption of the resolution once in a newspaper of general circulation in the school district in which the governing body's school is located.

B. After the passage of thirty days from the publication required by Subsection A of this section, any action attacking the validity of the proceedings taken by the governing body preliminary to and in the authorization of and entering into the lease purchase arrangement described in the notice is perpetually barred."

Chapter 106 Section 7 Laws 2015

SECTION 7. Section 22-26A-14 NMSA 1978 (being Laws 2007, Chapter 173, Section 14) is amended to read:

"22-26A-14. REFUNDING OR REFINANCING LEASE PURCHASE ARRANGEMENTS.--School districts and charter schools may enter into lease purchase arrangements for the purpose of refunding or refinancing any lease purchase arrangements then outstanding, including the payment of any prepayment premiums thereon and any interest accrued or to accrue to the date of prepayment maturity of the outstanding lease purchase arrangements. Until the proceeds of the lease purchase arrangements issued for the purpose of refunding or refinancing outstanding lease purchase arrangements are applied to the prepayment or retirement of the outstanding lease purchase arrangements, the proceeds may be placed in escrow and invested and reinvested. The interest, income and profits, if any, earned or realized on any such investment may, in the discretion of the governing body, also be applied to the payment of the outstanding lease purchase arrangements to be refunded or refinanced by prepayment or retirement, as the case may be. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, if any, earned or realized on the investments thereof may be returned to the governing body to be used for payment of the refunding or refinancing lease purchase arrangement. If the proceeds from a tax imposed pursuant to Sections 22-26A-8 through 22-26A-12 NMSA 1978 were used as a source of payments for the refunded lease purchase arrangement, the proceeds may continue to be used for the refunding or refinancing lease purchase arrangements without the requirement of an additional election on the issue."

Chapter 106 Section 8 Laws 2015

SECTION 8. Section 22-26A-15 NMSA 1978 (being Laws 2007, Chapter 173, Section 15, as amended) is amended to read:

"22-26A-15. AGREEMENT OF THE STATE.--The state does hereby pledge to and agree with the holders of any lease purchase arrangement, certificates of participation or other partial interest in a lease purchase arrangement entered into under

the Public School Lease Purchase Act that the state will not limit or alter the rights vested in school districts or charter schools to fulfill the terms of any lease purchase arrangement or related sublease arrangement or in any way impair the rights and remedies of the holders of lease purchase arrangements, certificates of participation or other partial interests in lease purchase arrangements until the payments due thereon, and all costs and expenses in connection with any action or proceedings by or on behalf of those holders, are fully met and discharged. School districts and charter schools are authorized to include this pledge and agreement of the state in any lease purchase arrangement or related sublease arrangement."

Chapter 106 Section 9 Laws 2015

SECTION 9. Section 22-26A-17 NMSA 1978 (being Laws 2007, Chapter 173, Section 17, as amended) is amended to read:

"22-26A-17. TAX EXEMPTION.--The state covenants with the original holder and all subsequent holders and transferees of lease purchase arrangements entered into by governing bodies, in consideration of the acceptance of and payment for the lease purchase arrangements entered into pursuant to the Public School Lease Purchase Act, that lease purchase arrangements, certificates of participation and other partial interests in lease purchase arrangements and the interest income from the lease purchase arrangements, certificates of participation and other partial interests shall at all times be free from taxation by the state, except for estate or gift taxes and taxes on transfers."

Chapter 106 Section 10 Laws 2015

SECTION 10. Section 22-26A-18 NMSA 1978 (being Laws 2007, Chapter 173, Section 18) is amended to read:

"22-26A-18. CUMULATIVE AND COMPLETE AUTHORITY.--The Public School Lease Purchase Act shall be deemed to provide an additional and alternative method for acquiring buildings and other real property authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as a derogation of any powers now existing. The Public School Lease Purchase Act shall be deemed to provide complete authority for acquiring buildings and other real property and entering into lease purchase arrangements contemplated thereby, and no other approval of any state agency or officer, except as provided therein, shall be required with respect to any lease purchase arrangements, and the governing body acting thereunder need not comply with the requirements of any other law applicable to the issuance of debt by school districts."

Chapter 106 Section 11 Laws 2015

SECTION 11. REPEAL.--Section 22-26A-19 NMSA 1978 (being Laws 2007, Chapter 173, Section 19, as amended) is repealed.

Chapter 106 Section 12 Laws 2015

SECTION 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 130, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 107

AN ACT

RELATING TO MINING; CHANGING EMERGENCY NOTIFICATION REQUIREMENTS FOR MINING ACCIDENTS.

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

Chapter 107 Section 1 Laws 2015

SECTION 1. Section 69-5-17 NMSA 1978 (being Laws 1933, Chapter 153, Section 23, as amended) is amended to read:

"69-5-17. FATAL AND SERIOUS MINE ACCIDENTS--ASSISTANCE--INVESTIGATION--NOTIFICATION--CIVIL PENALTY.--

A. The state mine inspector shall proceed immediately upon notification to the site of any mine accident causing the loss of life or requiring activation of a mine rescue team and shall assist in the rescue of persons within the mine. The state mine inspector shall participate in the accident investigation with any other federal, state and local agency and company representatives.

B. Whenever an accident occurs in or about a mine or the machinery connected to a mine, the operator of the mine shall give notice within thirty minutes of ascertaining the occurrence of the accident to the mine accident emergency operations center at the statewide telephone number established by the state mine inspector stating the particulars of the accident.

C. Nothing in this section shall be construed to relieve the operator of the mine from any reporting or notification requirement under federal law.

D. As used in this section, "accident" means "accident" as provided in Section 69-8-2 NMSA 1978.

E. The state mine inspector shall impose a civil penalty of up to one hundred thousand dollars (\$100,000) on the operator of the mine if it is determined that the operator failed to give immediate notice as required in this section. The inspector may waive imposition of the civil penalty at any time if the inspector finds that the failure to give immediate notice was caused by circumstances outside the control of the operator.

F. The penalties imposed by the state mine inspector for violations of this section shall be derived from criteria-based penalty points. A penalty conversion table developed by the state mine inspector shall serve as a guide for determining penalty assessments.

G. A person who receives a notice of violation that includes a penalty assessment under this section may, within twenty days after receipt of the notice, submit a written petition to the state mine inspector to review the notice. Within sixty days after receipt of the petition, the state mine inspector shall issue a final order upholding, amending or rescinding the notice. Within twenty days after the date of notice of the final order by the state mine inspector, a person who is the subject of the notice may file a written appeal of the order with the mining safety board. The mining safety board shall adopt rules to govern the appeal process."

Chapter 107 Section 2 Laws 2015

SECTION 2. Section 69-8-2 NMSA 1978 (being Laws 1961, Chapter 136, Section 2, as amended by Laws 2007, Chapter 301, Section 8 and by Laws 2007, Chapter 302, Section 8) is amended to read:

"69-8-2. DEFINITIONS.--As used in the Mining Safety Act:

A. "accident" means:

(1) in the case of a surface mine:

- (a) a death of an individual at a mine;
- (b) an injury that has a reasonable potential to cause death to an individual at a mine;
- (c) an entrapment of an individual that has a reasonable potential to cause death;
- (d) an unplanned ignition or explosion of a blasting agent or an explosive;
- (e) an unstable condition at an impoundment, refuse pile or culm bank that requires emergency action in order to prevent failure or that causes

individuals to evacuate an area or failure of an impoundment, refuse pile or culm bank;
or

(f) an event at a mine that causes death or bodily injury to an individual not at the mine at the time the event occurs; or

(2) in the case of an underground mine or the surface areas of an underground mine:

(a) a death of an individual at a mine;

(b) an injury that has a reasonable potential to cause death to an individual at a mine;

(c) an entrapment of an individual that has a reasonable potential to cause death;

(d) an unplanned inundation of a mine by a liquid or gas;

(e) an unplanned ignition or explosion of gas or dust;

(f) an unplanned mine fire in an underground mine that is not extinguished within ten minutes of discovery or an unplanned mine fire within the surface area of an underground mine that is not extinguished within thirty minutes;

(g) an unplanned ignition or explosion of a blasting agent or an explosive;

(h) an unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;

(i) a coal or rock outburst that causes withdrawal of miners or that disrupts regular mining activity for more than one hour;

(j) an unstable condition at an impoundment, refuse pile or culm bank that requires emergency action in order to prevent failure or that causes individuals to evacuate an area or failure of an impoundment, refuse pile or culm bank;

(k) damage to hoisting equipment in a shaft or slope that endangers an individual; or

(l) an event at a mine that causes death or bodily injury to an individual not at the mine at the time the event occurs;

B. "employee" means any person suffered or permitted to work in a mining occupation or pursuit by an employer;

C. "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee to a place of employment;

D. "inspector" means the state mine inspector;

E. "mine" means:

(1) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground;

(2) private ways and roads appurtenant to an area described in Paragraph (1) of this subsection; and

(3) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools or other property, including impoundments, retention dams and tailings ponds, on the surface or underground, used in, to be used in or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities;

F. "mining occupations or pursuits" includes mining, smelting and the operation of a mill, ore house or treatment plant in which ore or rock is processed;

G. "operator" means:

(1) any owner, lessee or other person that operates, controls or supervises a coal mine; or

(2) the person, partnership, association or corporation, or subsidiary of a corporation, operating a metal or nonmetal mine and owning the right to do so, including any agent thereof charged with responsibility for the operation of such mine;

H. "person" means an individual, partnership, association, corporation, business trust, receiver, trustee, legal representative or successor to any of the foregoing; and

I. "place of employment" means any place in or about which the employee is suffered or permitted to work."

Chapter 107 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 146

Approved April 9, 2015

LAWS 2015, CHAPTER 108

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL CODE TO DEFINE CERTAIN CHARTER SCHOOL TERMS AND TO CLARIFY CERTAIN RESPONSIBILITIES OF CHARTER SCHOOL AUTHORIZERS, CHARTER SCHOOL GOVERNING BODIES AND CHARTER SCHOOLS.

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

Chapter 108 Section 1 Laws 2015

SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level;

B. "adequate yearly progress" means the measure adopted by the department based on federal requirements to assess the progress that a public school or school district or the state makes toward improving student achievement;

C. "charter school" means a school authorized by a chartering authority to operate as a public school;

D. "commission" means the public education commission;

E. "department" means the public education department;

F. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

G. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

H. "licensed school employee" means teachers, school administrators and instructional support providers;

I. "local school board" means the policy-setting body of a school district;

J. "local superintendent" means the chief executive officer of a school district;

K. "parent" includes a guardian or other person having custody and control of a school-age person;

L. "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

M. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

N. "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

O. "school administrator" means a person licensed to administer in a school district and includes school principals, central district administrators and charter school head administrators;

P. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution;

Q. "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;

R. "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

S. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

T. "school employee" includes licensed and nonlicensed employees of a school district;

U. "school principal" means the chief instructional leader and administrative head of a public school;

V. "school year" means the total number of contract days offered by public schools in a school district during a period of twelve consecutive months;

W. "secretary" means the secretary of public education;

X. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

Y. "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico;

Z. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

AA. "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

BB. "certified school instructor" means a teacher or instructional support provider; and

CC. "certified school employee" or "certified school personnel" means a licensed school employee."

Chapter 108 Section 2 Laws 2015

SECTION 2. Section 22-2-21 NMSA 1978 (being Laws 2011, Chapter 50, Section 1, as amended) is amended to read:

"22-2-21. BULLYING AND CYBERBULLYING PREVENTION PROGRAMS.--

A. The department shall establish guidelines for bullying prevention policies to be promulgated by local school boards. Every local school board and governing body of a charter school shall promulgate a bullying prevention policy by August 2011. Every public school shall implement a bullying prevention program by August 2012.

B. Every local school board and governing body of a charter school shall promulgate a specific cyberbullying prevention policy by August 2013. Cyberbullying prevention policies shall require that:

(1) all licensed school employees complete training on how to recognize signs that a person is being cyberbullied;

(2) any licensed school employee who has information about or a reasonable suspicion that a person is being cyberbullied report the matter immediately to the school principal or the local superintendent or both;

(3) any school administrator or local superintendent who receives a report of cyberbullying take immediate steps to ensure prompt investigation of the report; and

(4) school administrators take prompt disciplinary action in response to cyberbullying confirmed through investigation. Disciplinary action taken pursuant to this subsection must be by the least restrictive means necessary to address a hostile environment on the school campus resulting from the confirmed cyberbullying and may include counseling, mediation and appropriate disciplinary action that is consistent with the legal rights of the involved students.

C. Each local school board and governing body of a charter school shall make any necessary revisions to its disciplinary policies to ensure compliance with the provisions of this section.

D. As used in this section, "cyberbullying" means electronic communication that:

(1) targets a specific student;

(2) is published with the intention that the communication be seen by or disclosed to the targeted student;

(3) is in fact seen by or disclosed to the targeted student; and

(4) creates or is certain to create a hostile environment on the school campus that is so severe or pervasive as to substantially interfere with the targeted student's educational benefits, opportunities or performance."

Chapter 108 Section 3 Laws 2015

SECTION 3. Section 22-2E-4 NMSA 1978 (being Laws 2011, Chapter 10, Section 4, as amended) is amended to read:

"22-2E-4. ANNUAL RATINGS--LETTER GRADES--RATINGS BASED ON STANDARDS-BASED ASSESSMENTS--RIGHT TO SCHOOL CHOICE--DISTANCE LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS--ADDITIONAL REMEDY.--

A. All public schools shall be graded annually by the department.

B. The department shall assign a letter grade of A, B, C, D or F to each public school pursuant to criteria established by department rules, after input from the secretary's superintendents' council, that include as a minimum a combination of the following factors in a public school's grade:

(1) for elementary and middle schools:

(a) student proficiency, including achievement on the New Mexico standards-based assessments;

(b) student growth in reading and mathematics; and

(c) growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics; and

(2) for high schools:

(a) student proficiency, including achievement on the New Mexico standards-based assessments;

(b) student growth in reading and mathematics;

(c) growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics; and

(d) additional academic indicators such as high school graduation rates, growth in high school graduation rates, advanced placement and international baccalaureate courses, dual enrollment courses and SAT and ACT scores.

C. The New Mexico standards-based assessments used for rating a school are those administered annually to students in grades three, four, five, six, seven, eight, nine and eleven pursuant to Section 22-2C-4 NMSA 1978.

D. In addition to any rights a parent may have pursuant to federal law, the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student in the same grade to any public school in the state not rated F or the right to have the student continue schooling by means of distance learning offered through the statewide or a local cyber academy. The school district or charter school in which the student is enrolled is responsible for the cost of distance learning.

E. The department shall ensure that a local school board or, for a charter school, the governing body of the charter school is prioritizing resources of a public school rated D or F toward proven programs and methods linked to improved student achievement until the public school earns a grade of C or better for two consecutive years.

F. The school options available pursuant to the A-B-C-D-F Schools Rating Act are in addition to any remedies provided for in the Assessment and Accountability Act for students in schools in need of improvement or any other interventions prescribed by the federal No Child Left Behind Act of 2001.

G. When reporting a school's grade, the department shall include student data disaggregated by ethnicity, race, limited English proficiency, students with disabilities, poverty and gender; provided that ethnicity and race shall be reported using the following categories:

(1) Caucasian, non-Hispanic;

(2) Hispanic;

(3) African American;

(4) American Indian or Alaska Native;

(5) Native Hawaiian or other Pacific Islander;

(6) Asian;

(7) two or more races; and

(8) other; provided that if the sample of students in any category enumerated in Paragraphs (1) through (7) of this subsection is so small that a student in the sample may be personally identifiable in violation of the federal Family Educational

Rights and Privacy Act of 1974, the report may combine that sample into the "other" category."

Chapter 108 Section 4 Laws 2015

SECTION 4. Section 22-8-6.1 NMSA 1978 (being Laws 1993, Chapter 227, Section 8, as amended) is amended to read:

"22-8-6.1. CHARTER SCHOOL BUDGETS.--

A. Each state-chartered charter school shall submit to the charter schools division of the department a school-based budget. For the first year of operation, the budget of every state-chartered charter school shall be based on the projected number of program units generated by that charter school and its students, using the at-risk index and the instructional staff training and experience index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the budgets of state-chartered charter schools shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and its own instructional staff training and experience index and the at-risk index of the school district in which the state-chartered charter school is geographically located. The budget shall be submitted to the division for approval or amendment pursuant to the Public School Finance Act and the Charter Schools Act. Thereafter, the budget shall be submitted to the public education commission for review.

B. Each locally chartered charter school shall submit to the local school board a school-based budget. For the first year of operation, the budget of every locally chartered charter school shall be based on the projected number of program units generated by the charter school and its students, using the at-risk index and the instructional staff training and experience index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the budgets of locally chartered charter schools shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and its own instructional staff training and experience index and the at-risk index of the school district in which the locally chartered charter school is geographically located. The budget shall be submitted to the local school board for approval or amendment. The approval or amendment authority of the local school board relative to the charter school budget is limited to ensuring that sound fiscal practices are followed in the development of the budget and that the charter school budget is within the allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed budget, but shall approve or disapprove the budget in its entirety. Upon final approval of the local budget by the local school board, the individual charter school budget shall be included separately in the budget submission to the department required pursuant to the Public School Finance Act and the Charter Schools Act.

C. For the first year of operation after a locally chartered charter school converts to a state-chartered charter school or a state-chartered charter school converts to a locally chartered charter school, the charter school's budget shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and the instructional staff training and experience index and the at-risk index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the charter school shall follow the provisions of Subsection A or B of this section, as applicable."

Chapter 108 Section 5 Laws 2015

SECTION 5. Section 22-8-7 NMSA 1978 (being Laws 1967, Chapter 16, Section 61, as amended) is amended to read:

"22-8-7. MANNER OF BUDGET SUBMISSION.--All budgets submitted by a school district, locally chartered charter school or state-chartered charter school shall be in a manner specified by the department."

Chapter 108 Section 6 Laws 2015

SECTION 6. Section 22-8-11 NMSA 1978 (being Laws 1967, Chapter 16, Section 66, as amended) is amended to read:

"22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

A. The department shall:

(1) on or before July 1 of each year, approve and certify to each local school board and governing body of a charter school an operating budget for use by the school district or charter school;

(2) make corrections, revisions and amendments to the operating budgets fixed by the local school boards or governing bodies of charter schools and the secretary to conform the budgets to the requirements of law and to the department's rules and procedures; and

(3) ensure that a local school board or, for a charter school, the governing body of the charter school is prioritizing resources of a public school rated D or F toward proven programs and methods that are linked to improved student achievement until the public school earns a grade of C or better for two consecutive years.

B. No school district or charter school or officer or employee of a school district or charter school shall make any expenditure or incur any obligation for the expenditure of public funds unless that expenditure or obligation is made in accordance

with an operating budget approved by the department. This prohibition does not prohibit the transfer of funds pursuant to the department's rules and procedures.

C. The department shall not approve and certify an operating budget of any school district or charter school that fails to demonstrate that parental involvement in the budget process was solicited."

Chapter 108 Section 7 Laws 2015

SECTION 7. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

"22-8-18. PROGRAM COST CALCULATION--LOCAL RESPONSIBILITY.--

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) through (6) in this subsection by the instructional staff training and experience index and adding the program units itemized as Paragraphs (7) through (14) 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 program;
- (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 program unit;

(13) home school student activities; and

(14) charter school student activities.

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, for a charter school, the governing body of the 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 if a public school has been rated

D or F for two consecutive years, the department shall ensure that the local school board or, for a charter school, the governing body of the charter school is prioritizing resources for the public school toward proven programs and methods linked to improved student achievement until the public school earns a C or better for two consecutive years."

Chapter 108 Section 8 Laws 2015

SECTION 8. Section 22-8B-2 NMSA 1978 (being Laws 1999, Chapter 281, Section 2, as amended) is amended to read:

"22-8B-2. DEFINITIONS.--As used in the Charter Schools Act:

A. "charter school" means a conversion school or start-up school authorized by the chartering authority to operate as a public school;

B. "chartering authority" means either a local school board or the commission;

C. "commission" means the public education commission;

D. "conversion school" means an existing public school within a school district that was authorized by a local school board to become a charter school prior to July 1, 2007;

E. "division" means the charter schools division of the department;

F. "enrollment preference" means filling a charter school's openings with students, or siblings of students, who have already been admitted to the school through an appropriate admission process or are continuing through subsequent grades;

G. "governing body" means the governing structure of a charter school as set forth in the school's charter;

H. "governing body training" means the training required pursuant to Section 22-8B-5.1 NMSA 1978 to educate governing body members and ensure compliance with all applicable laws, which training may be obtained from any source, individual or entity that has been approved by the department;

I. "management" means authority over the hiring, termination and day-to-day direction of a school's employees or contractors, whether they are licensed or not;

J. "material violation" means the act of failing to accomplish a requirement of a law, rule or contract or a charter school's bylaws that substantially affects the charter school's employees' or students' rights or privileges;

K. "nondiscretionary waiver" means a waiver of requirements or rules and the provisions of the Public School Code that the department shall grant pursuant to Section 22-8B-5 NMSA 1978 and for which a charter school shall not require separate approval by the department;

L. "performance indicator" means a measurement tool that enables selected issues or conditions to be monitored over time for the purposes of evaluating progress toward or away from a desired direction;

M. "performance target" means the specific rating to which the data from a school's performance indicators shall be compared to determine whether the school exceeds, meets, does not meet or falls far below that rating;

N. "siblings" means:

(1) students living in the same residence at least fifty percent of the time in a permanent or semipermanent situation, such as long-term foster care placements; or

(2) students related to each other by blood, marriage or cohabitation; and

O. "start-up school" means a public school developed by one or more parents, teachers or community members authorized by the chartering authority to become a charter school."

Chapter 108 Section 9 Laws 2015

SECTION 9. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6, as amended) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS--
AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION REQUIRED--
PUBLIC HEARINGS--SUBCOMMITTEES.--

A. A local school board has the authority to approve the establishment of a locally chartered charter school within that local school board's district.

B. No later than the second Tuesday of January of the year in which an application will be filed, the organizers of a proposed charter school shall provide written notification to the commission and the school district in which the charter school is proposed to be located of their intent to establish a charter school. Failure to notify may result in an application not being accepted.

C. A charter school applicant shall apply to either a local school board or the commission for a charter. If an application is submitted to a chartering authority, it must process the application. Applications for initial charters shall be submitted by June 1 to be eligible for consideration for the following fiscal year; provided that the June 1 deadline may be waived upon agreement of the applicant and the chartering authority.

D. An application shall include the total number of grades the charter school proposes to provide, either immediately or phased. A charter school may decrease the number of grades it eventually offers, but it shall not increase the number of grades or the total number of students proposed to be served in each grade.

E. An application shall include a detailed description of the charter school's projected facility needs, including projected requests for capital outlay assistance that have been approved by the director of the public school facilities authority or the director's designee. The director shall respond to a written request for review from a charter applicant within forty-five days of the request.

F. An application may be made by one or more teachers, parents or community members or by a public post-secondary educational institution or nonprofit organization. Municipalities, counties, private post-secondary educational institutions and for-profit business entities are not eligible to apply for or receive a charter.

G. An initial application for a charter school shall not be made after June 30, 2007 if the proposed charter school's proposed enrollment for all grades or the proposed charter school's proposed enrollment for all grades in combination with any other charter school's enrollment for all grades would equal or exceed ten percent of the total MEM of the school district in which the charter school will be geographically located and that school district has a total enrollment of not more than one thousand three hundred students.

H. A state-chartered charter school shall not be approved for operation unless its governing body has qualified to be a board of finance.

I. The chartering authority shall receive and review all applications for charter schools submitted to it. The chartering authority shall not charge application fees.

J. The chartering authority shall hold at least one public hearing in the school district in which the charter school is proposed to be located to obtain information and community input to assist it in its decision whether to grant a charter school application. The chartering authority may designate a subcommittee of no fewer than three members to hold the public hearing, and, if so, the hearing shall be transcribed for later review by other members of the chartering authority. Community input may include written or oral comments in favor of or in opposition to the application from the applicant, the local community and, for state-chartered charter schools, the local school board and school district in whose geographical boundaries the charter school is proposed to be located.

K. The chartering authority shall rule on the application for a charter school in a public meeting by September 1 of the year the application was received; provided, however, that prior to ruling on the application for which a designated subcommittee was used, any member of the chartering authority who was not present at the public hearing shall receive the transcript of the public hearing together with documents submitted for the public hearing. If not ruled upon by that date, the charter application shall be automatically reviewed by the secretary in accordance with the provisions of Section 22-8B-7 NMSA 1978. The charter school applicant and the chartering authority may, however, jointly waive the deadlines set forth in this section.

L. A chartering authority may approve, approve with conditions or deny an application. A chartering authority may deny an application if:

(1) the application is incomplete or inadequate;

(2) the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act;

(3) the proposed head administrator or other administrative or fiscal staff was involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal staff was discharged from a public school for fiscal mismanagement;

(4) for a proposed state-chartered charter school, it does not request to have the governing body of the charter school designated as a board of finance or the governing body does not qualify as a board of finance; or

(5) the application is otherwise contrary to the best interests of the charter school's projected students, the local community or the school district in whose geographic boundaries the charter school applies to operate.

M. If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or conditions in writing within fourteen days of the meeting. If the chartering authority grants a charter, the approved charter shall be provided to the applicant together with any imposed conditions.

N. A charter school that has received a notice from the chartering authority denying approval of the charter shall have a right to a hearing by the secretary as provided in Section 22-8B-7 NMSA 1978."

Chapter 108 Section 10 Laws 2015

SECTION 10. Section 22-8B-9 NMSA 1978 (being Laws 1999, Chapter 281, Section 9, as amended) is amended to read:

"22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

A. The chartering authority shall enter into a contract with the governing body of the applicant charter school within thirty days of approval of the charter application. The charter contract shall be the final authorization for the charter school and shall be part of the charter. If the chartering authority and the applicant charter school fail to agree upon the terms of or enter into a contract within thirty days of the approval of the charter application, either party may appeal to the secretary to finalize the terms of the contract; provided that such appeal must be provided in writing to the secretary within forty-five days of the approval of the charter application. Failure to enter into a charter contract or appeal to the secretary pursuant to this section precludes the chartering authority from chartering the school.

B. The charter contract shall include:

(1) all agreements regarding the release of the charter school from department and local school board rules and policies, including discretionary waivers provided for in Section 22-8B-5 NMSA 1978;

(2) any material term of the charter application as determined by the parties to the contract;

(3) the mission statement of the charter school and how the charter school will report on implementation of its mission;

(4) the chartering authority's duties to the charter school and liabilities of the chartering authority as provided in Section 22-8B-5.3 NMSA 1978;

(5) a statement of admission policies and procedures;

(6) signed assurances from the charter school's governing body members regarding compliance with all federal and state laws governing organizational, programmatic and financial requirements applicable to charter schools;

(7) the criteria, processes and procedures that the chartering authority will use for ongoing oversight of operational, financial and academic performance of the charter school;

(8) a detailed description of how the chartering authority will use the withheld two percent of the school-generated program cost as provided in Section 22-8B-13 NMSA 1978;

(9) the types and amounts of insurance liability coverage to be obtained by the charter school;

(10) the term of the contract;

(11) the process and criteria that the chartering authority intends to use to annually monitor and evaluate the fiscal, overall governance and student performance of the charter school, including the method that the chartering authority intends to use to conduct the evaluation as required by Section 22-8B-12 NMSA 1978;

(12) the dispute resolution processes agreed upon by the chartering authority and the charter school, provided that the processes shall, at a minimum, include:

(a) written notice of the intent to invoke the dispute resolution process, which notice shall include a description of the matter in dispute;

(b) a time limit for response to the notice and cure of the matter in dispute;

(c) a procedure for selection of a neutral third party to assist in resolving the dispute;

(d) a process for apportionment of all costs related to the dispute resolution process; and

(e) a process for final resolution of the issue reviewed under the dispute resolution process;

(13) the criteria, procedures and time lines, agreed upon by the charter school and the chartering authority, addressing charter revocation and deficiencies found in the annual status report pursuant to the provisions of Section 22-8B-12 NMSA 1978;

(14) if the charter school contracts with a third-party provider, the criteria and procedures for the chartering authority to review the provider's contract and the charter school's financial independence from the provider;

(15) all requests for release of the charter school from department rules or the Public School Code. Within ten days after the contract is approved by the local school board, any request for release from department rules or the Public School Code shall be delivered by the local school board to the department. If the department grants the request, it shall notify the local school board and the charter school of its decision. If the department denies the request, it shall notify the local school board and the charter school that the request is denied and specify the reasons for denial;

(16) an agreement that the charter school will participate in the public school insurance authority;

(17) if the charter school is a state-chartered charter school, a process for qualification of and review of the school as a qualified board of finance and provisions for assurance that the school has satisfied any conditions imposed by the commission;

(18) a listing of the charter school's nondiscretionary waivers; and

(19) any other information reasonably required by either party to the contract.

C. The process for revision or amendment to the terms of the charter contract shall be made only with the approval of the chartering authority and the governing body of the charter school. If they cannot agree, either party may appeal to the secretary as provided in Subsection A of this section."

Chapter 108 Section 11 Laws 2015

SECTION 11. Section 22-8B-9.1 NMSA 1978 (being Laws 2011, Chapter 14, Section 4) is amended to read:

"22-8B-9.1. PERFORMANCE FRAMEWORK.--

A. The performance provisions in the charter contract shall be based on a framework that clearly sets forth the academic and operations performance indicators and performance targets that will guide the chartering authority's evaluation of each charter school. The performance framework shall be a material term of the charter school contract and shall include performance indicators and performance targets for, at a minimum:

(1) student academic performance;

(2) student academic growth;

(3) achievement gaps in both proficiency and growth between student subgroups;

(4) attendance;

(5) recurrent enrollment from year to year;

(6) if the charter school is a high school, post-secondary readiness;

(7) if the charter school is a high school, graduation rate;

(8) financial performance and sustainability; and

(9) governing body performance, including compliance with all applicable laws, rules and terms of the charter contract.

B. Annual performance targets shall be set by each chartering authority in consultation with its charter schools and shall be designed to help each charter school meet applicable federal, state and chartering authority expectations as set forth in the charter contracts to which the authority is a party.

C. The performance framework shall allow for the inclusion of additional rigorous, valid and reliable indicators proposed by a charter school to augment external evaluations of its performance, provided that the chartering authority shall approve the quality and rigor of such proposed indicators and the indicators are consistent with the purposes of the Charter Schools Act.

D. The performance framework shall require the disaggregation of all student performance data collected in compliance with this section by student subgroup, including gender, race, poverty status, special education or gifted status and English language learner.

E. The chartering authority shall collect, analyze and report all data from state assessment tests in accordance with the performance framework set forth in the charter contract for each charter school overseen by that chartering authority."

Chapter 108 Section 12 Laws 2015

SECTION 12. Section 22-8B-12 NMSA 1978 (being Laws 1999, Chapter 281, Section 12, as amended) is amended to read:

"22-8B-12. CHARTER SCHOOLS--TERM--OVERSIGHT AND CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUNDS FOR NONRENEWAL OR REVOCATION.--

A. A charter school may be approved for an initial term of six years; provided that the first year shall be used exclusively for planning and not for completing the application. A charter may be renewed for successive periods of five years each. Approvals of less than five years may be agreed to between the charter school and the chartering authority.

B. During the planning year, the charter school shall file a minimum of three status reports with the chartering authority and the department for the purpose of demonstrating that the charter school's implementation progress is consistent with the conditions, standards and procedures of its approved charter. The report content, format and schedule for submission shall be agreed to by the chartering authority and the charter school and become part of the charter contract.

C. Prior to the end of the planning year, the charter school shall demonstrate that its facilities meet the requirements of Section 22-8B-4.2 NMSA 1978.

D. A chartering authority shall monitor the fiscal, overall governance and student performance and legal compliance of the charter schools that it oversees, including reviewing the data provided by the charter school to support ongoing evaluation according to the charter contract. Every chartering authority may conduct or require oversight activities that allow the chartering authority to fulfill its responsibilities under the Charter Schools Act, including conducting appropriate inquiries and investigations; provided that the chartering authority complies with the provisions of the Charter Schools Act and the terms of the charter contract and does not unduly inhibit the autonomy granted to the charter schools that it governs.

E. As part of its performance review of a charter school, a chartering authority shall visit a charter school under its authority at least once annually to provide technical assistance to the charter school and to determine the status of the charter school and the progress of the charter school toward the performance framework goals in its charter contract.

F. If, based on the performance review conducted by the chartering authority pursuant to Subsection D of this section, a charter school's fiscal, overall governance or student performance or legal compliance appears unsatisfactory, the chartering authority shall promptly notify the governing body of the charter school of the unsatisfactory review and provide reasonable opportunity for the governing body to remedy the problem; provided that if the unsatisfactory review warrants revocation, the revocation procedures set forth in this section shall apply. A chartering authority may take appropriate corrective actions or exercise sanctions, as long as such sanctions do not constitute revocation, in response to the unsatisfactory review. Such actions or sanctions by the chartering authority may include requiring a governing body to develop and execute a corrective action plan with the chartering authority that sets forth time frames for compliance.

G. Every chartering authority shall submit an annual report to the division, including a performance report for each charter school that it oversees, in accordance with the performance framework set forth in the charter contract.

H. The department shall review the annual report received from the chartering authority to determine if the department or local school board rules and policies from which the charter school was released pursuant to the provisions of Section 22-8B-5 NMSA 1978 assisted or impeded the charter school in meeting its stated goals and objectives. The department shall use the annual reports received from the chartering authorities as part of its report to the governor, the legislative finance committee and the legislative education study committee as required by the Charter Schools Act.

I. No later than two hundred seventy days prior to the date in which the charter expires, the governing body may submit a renewal application to the chartering authority. A charter school may apply to a different chartering authority for renewal. The chartering authority shall rule in a public hearing on the renewal application no later than one hundred eighty days prior to the expiration of the charter.

J. A charter school renewal application submitted to the chartering authority shall contain:

(1) a report on the progress of meeting the academic performance, financial compliance and governance responsibilities of the charter school, including achieving the goals, objectives, student performance outcomes, state standards of excellence and other terms of the charter contract, including the accountability requirements set forth in the Assessment and Accountability Act;

(2) a financial statement that discloses the costs of administration, instruction and other spending categories for the charter school that is understandable to the general public, that allows comparison of costs to other schools or comparable organizations and that is in a format required by the department;

(3) a copy of the charter contract executed in compliance with the provisions of Section 22-8B-9 NMSA 1978;

(4) a petition in support of the charter school renewing its charter status signed by not less than sixty-five percent of the employees in the charter school;

(5) a petition in support of the charter school renewing its charter status signed by at least seventy-five percent of the households whose children are enrolled in the charter school; and

(6) a description of the charter school facilities and assurances that the facilities are in compliance with the requirements of Section 22-8B-4.2 NMSA 1978.

K. A charter may be suspended, revoked or not renewed by the chartering authority if the chartering authority determines that the charter school did any of the following:

(1) committed a material violation of any of the conditions, standards or procedures set forth in the charter contract;

(2) failed to meet or make substantial progress toward achievement of the department's standards of excellence or student performance standards identified in the charter contract;

(3) failed to meet generally accepted standards of fiscal management; or

(4) violated any provision of law from which the charter school was not specifically exempted.

L. The chartering authority shall develop processes for suspension, revocation or nonrenewal of a charter that:

(1) provide the charter school with timely notification of the prospect of suspension, revocation or nonrenewal of the charter and the reasons for such action;

(2) allow the charter school a reasonable amount of time to prepare and submit a response to the chartering authority's action; and

(3) require the final determination made by the chartering authority to be submitted to the department.

M. If a chartering authority suspends, revokes or does not renew a charter, the chartering authority shall state in writing its reasons for the suspension, revocation or nonrenewal.

N. A decision to suspend, revoke or not to renew a charter may be appealed by the governing body pursuant to Section 22-8B-7 NMSA 1978."

Chapter 108 Section 13 Laws 2015

SECTION 13. Section 22-15D-5 NMSA 1978 (being Laws 2003, Chapter 152, Section 5, as amended) is amended to read:

"22-15D-5. PROGRAM PLAN AND EVALUATION.--

A. A school district or charter school may prepare and submit to the department a fine arts education program plan in accordance with guidelines issued by the department.

B. At a minimum, the plan shall include the fine arts education programs being taught, the ways in which the fine arts are being integrated into the curriculum and an evaluation component.

C. At yearly intervals, the school district or charter school, the department and a parent advisory committee from the school district or charter school shall review the goals and priorities of the plan and make appropriate recommendations to the secretary."

Chapter 108 Section 14 Laws 2015

SECTION 14. Section 22-23-2 NMSA 1978 (being Laws 1973, Chapter 285, Section 2, as amended) is amended to read:

"22-23-2. DEFINITIONS.--As used in the Bilingual Multicultural Education Act:

A. "bilingual multicultural education program" means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;

B. "culturally and linguistically different" means students who are of a different cultural background than mainstream United States culture and whose home or heritage language, inherited from the student's family, tribe or country of origin, is a language other than English;

C. "district" means a public school or any combination of public schools in a district;

D. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade level English proficient peers and native English speakers;

E. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;

F. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community; and

G. "standardized curriculum" means a district curriculum that is aligned with the state academic content standards, benchmarks and performance standards."

Chapter 108 Section 15 Laws 2015

SECTION 15. Section 22-23-5 NMSA 1978 (being Laws 1973, Chapter 285, Section 5, as amended) is amended to read:

"22-23-5. BILINGUAL MULTICULTURAL EDUCATION PROGRAM PLAN--
EVALUATION.--

A. A school board or, for charter schools, a governing body of a charter school may prepare and submit to the department a bilingual multicultural education program plan in accordance with rules issued by the department.

B. At regular intervals, the school board or governing body of a charter school and a parent advisory committee from the district or charter school shall review the goals and priorities of the plan and make appropriate recommendations to the department.

C. Bilingual multicultural education programs shall be delivered as part of the regular academic program. Involvement of students in a bilingual multicultural education program shall not have the effect of segregating students by ethnic group, color or national origin.

D. Each district or charter school shall maintain academic achievement and language proficiency data and update the data annually to evaluate bilingual multicultural education program effectiveness and use of funds. The department shall annually compile and report these data to the appropriate interim legislative committee.

E. Districts and charter schools shall provide professional development to employees, including teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents and financial officers in the areas of:

(1) research-based bilingual multicultural education programs and implications for instruction;

(2) best practices of English as a second language, English language development and bilingual multicultural education programs; and

(3) classroom assessments that support academic and language development.

F. Bilingual multicultural education programs shall be part of the district's or charter school's professional development plan. Bilingual educators, including teachers, teacher assistants, instructional support personnel, principals and program administrators, shall participate in professional development and training."

Chapter 108 Section 16 Laws 2015

SECTION 16. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 148, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 109

AN ACT

RELATING TO PUBLIC WORKS CONTRACTS; CLARIFYING EVIDENTIARY STANDARDS FOR CLAIMS AGAINST A BOND FOR FURNISHING LABOR AND MATERIALS FOR PUBLIC WORKS PROJECTS.

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

Chapter 109 Section 1 Laws 2015

SECTION 1. Section 13-4-19 NMSA 1978 (being Laws 1923, Chapter 136, Section 2, as amended) is amended to read:

"13-4-19. RIGHTS OF PERSON FURNISHING LABOR OR MATERIALS AND RIGHT OF STATE WITH RESPECT TO TAXES DUE.--

A. The state shall have the right to sue on the payment bond for all taxes due arising out of construction services rendered under a contract, in respect of which a payment bond is furnished under Section 13-4-18 NMSA 1978 by a contractor that does not have its principal place of business in New Mexico, and to prosecute such action to final execution and judgment for the sum due. The court may allow, as part of the costs, interest and reasonable attorney fees.

B. Every person, firm or corporation that has furnished labor or materials in the prosecution of work provided for in a contract, in respect of which a payment bond is furnished under Section 13-4-18 NMSA 1978, and that has not been paid in full for the labor or materials before the expiration of a period of ninety days after the day on which the last of the labor was done or performed or materials were furnished or supplied for which claim is made, shall have the right to sue on the payment bond for the amount of the balance unpaid at the time of the institution of the suit and to prosecute such action to final execution and judgment for the sum or sums justly due for the labor done or performed or materials furnished to be used in the construction of the project; provided, however, that sums justly due shall be determined according to the subcontract or other contractual relationship directly with the contractor furnishing the payment bond. A person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing the payment bond shall have a right of action upon the payment bond upon giving written notice to the contractor, within ninety days from the date on which the person did or

performed the last of the labor or furnished or supplied the last of the materials for which the claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed. Notice shall be served by mailing the notice by registered mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business or at the contractor's residence or in any manner in which the service of summons in civil process is authorized by law.

C. The claimant in the suit shall notify the obligee named in the bond of the beginning of such action, stating the amount claimed, and no judgment shall be entered in the action within thirty days after giving notice. The obligee and any person, firm, corporation or the state having a cause of action on the bond may be admitted on motion as a party to the action, and the court shall determine the rights of all parties thereto. If the amount realized on the bond is insufficient to discharge all claims in full, the amount shall be distributed among the parties entitled thereto pro rata.

D. Except for suits by the state with respect to taxes that shall be brought in the name of the revenue processing division of the taxation and revenue department, every suit instituted under this section shall be brought in the name of the state for the use of the person suing in the district court in any judicial district in which the contract was to be performed and executed or where the claimant resides, but no such suit, including one brought by the revenue processing division, shall be commenced after the expiration of one year after the date of final settlement of the contract. The date of final settlement, for purposes of this section, is that date set by the obligee in the final closing and settlement of payment, if any, due the contractor. The state shall not be liable for the payment of any costs or expenses of any such suit.

E. The obligee named in the bond is authorized and directed to furnish to any person, firm or corporation making application therefor that submits an affidavit that the person, firm or corporation has supplied labor or materials for such work and payment has not been made or that the person, firm or corporation is being sued on any such bond or to furnish to the revenue processing division of the taxation and revenue department a certified copy of the bond and the contract for which it was given, which copy shall be prima facie evidence of the contents, execution and delivery of the original, and, in case final settlement of the contract has been made, a certified statement of the date of such settlement, which shall be conclusive as to such demand upon it. Applicants shall pay for the certified copies and certified statements such fees as the obligee fixes to cover the cost of preparation."

SCORC/Senate Bill 158

Approved April 9, 2015

LAWS 2015, CHAPTER 110

AN ACT

RELATING TO PROFESSIONAL LICENSES; AMENDING THE SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES ACT TO CLARIFY THE DEFINITION AND USE OF CERTAIN TERMS IN THE ACT.

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

Chapter 110 Section 1 Laws 2015

SECTION 1. Section 61-14B-2 NMSA 1978 (being Laws 1996, Chapter 57, Section 2, as amended) is amended to read:

"61-14B-2. DEFINITIONS.--As used in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act:

A. "apprentice" means a person working toward full licensure in speech-language pathology who meets the requirements for licensure as an apprentice in speech and language pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

B. "appropriate supervisor" means a person licensed pursuant to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act who has a minimum of two years' experience as a speech-language pathologist after the clinical fellowship year;

C. "auditory trainer" means a custom-fitted FM amplifying instrument other than a hearing aid designed to enhance signal-to-noise ratios;

D. "audiologist" means a person who engages in the practice of audiology, who may or may not dispense hearing aids and who meets the qualifications set forth in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

E. "bilingual-multicultural endorsement" means an endorsement that is issued pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act to a qualified speech-language pathologist and that recognizes the licensee's or applicant's demonstrated proficiency in the use of languages other than English to provide speech-language pathology services;

F. "board" means the speech-language pathology, audiology and hearing aid dispensing practices board;

G. "business location" means a permanent physical business location in New Mexico where records can be examined and process served;

H. "certification by a national professional association" means certification issued by a board-approved national speech-language or hearing association;

I. "clinical fellow" means a person who has completed all academic course work and practicum requirements for a master's degree or the equivalent in speech-language pathology and engages in the practice of speech-language pathology as set forth in the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

J. "clinical fellowship year" or "CFY" means the time following the completion of all academic course work and practicum requirements for a master's degree in

speech-language pathology and during which a clinical fellow is working toward certification by a national professional association;

K. "department" means the regulation and licensing department;

L. "hearing aid" means a wearable instrument or device designed or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including earmolds but excluding batteries and cords;

M. "hearing aid dispenser" means a person other than an audiologist or an otolaryngologist who is licensed to sell, fit and service hearing aids pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and maintains or occupies a permanent physical business location in New Mexico where records can be examined and process can be served;

N. "otolaryngologist" means a licensed physician who has completed a recognized residency in otolaryngology and is certified by the American board of otolaryngology;

O. "paraprofessional" means a person who provides adjunct speech-pathology or audiology services under the direct supervision of a licensed speech-language pathologist or audiologist;

P. "practice of audiology" means the application of principles, methods and procedures of measurement, testing, appraisal, prognostication, aural rehabilitation, aural habilitation, consultation, hearing aid selection and fitting, counseling, instruction and research related to hearing and disorders of hearing for the purpose of nonmedical diagnosis, prevention, identification, amelioration or the modification of communicative disorders involving speech, language auditory function or other aberrant behavior related to hearing disorders;

Q. "practice of hearing aid dispensing" means the behavioral measurement of human hearing for the purpose of the selection and fitting of hearing aids or other rehabilitative devices to ameliorate the dysfunction of hearing sensitivity; this may include otoscopic inspection of the ear, fabrication of ear impressions and earmolds, instruction, consultation and counseling on the use and care of these instruments, medical referral when appropriate and the analysis of function and servicing of these instruments involving their modification or adjustment;

R. "practice of speech-language pathology" means the rendering or offering to render to individuals, groups, organizations or the public any service in speech or language pathology involving the nonmedical application of principles, methods and procedures for the measurement, testing, diagnosis, prognostication, counseling and instruction related to the development and disorders of communications, speech, fluency, voice, verbal and written language, auditory comprehension, cognition, dysphagia, oral pharyngeal or laryngeal sensorimotor competencies and treatment of persons requiring use of an augmentative communication device for the purpose of nonmedical diagnosing, preventing, treating and ameliorating such disorders and conditions in individuals and groups of individuals;

S. "screening" means a pass-fail procedure to identify individuals who may require further assessment in the areas of speech-language pathology, audiology or hearing aid dispensing;

T. "speech-language pathologist" means a person who engages in the practice of speech-language pathology and who meets the qualifications set forth in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

U. "sponsor" means a licensed hearing aid dispenser, audiologist or otolaryngologist who has an endorsement to dispense hearing aids and:

(1) is employed in the same business location where the trainee is being trained; and

(2) has been actively engaged in the dispensing of hearing aids during three of the past five years;

V. "student" means a person who is a full- or part-time student enrolled in an accredited college or university program in speech-language pathology, audiology or communicative disorders;

W. "supervisor" means a speech-language pathologist or audiologist licensed pursuant to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act who provides supervision in the area of speech-language pathology or audiology; and

X. "trainee" means a person working toward full licensure as a hearing aid dispenser under the direct supervision of a sponsor."

Chapter 110 Section 2 Laws 2015

SECTION 2. Section 61-14B-12 NMSA 1978 (being Laws 1996, Chapter 57, Section 12, as amended) is amended to read:

"61-14B-12. REQUIREMENTS FOR LICENSURE--SPEECH-LANGUAGE PATHOLOGIST.--A license to practice as a speech-language pathologist shall be issued to a person who files a completed application, accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and submits satisfactory evidence that the applicant:

A. holds at least a master's degree in speech pathology, speech-language pathology or communication disorders or an equivalent degree regardless of degree name and meets the academic requirements for certification by a national professional association; and either

B. currently holds certification by a national professional association in the area for which the applicant is seeking licensure; or

C. has completed the current academic, practicum and employment experience requirements for certification by a national professional association in the area for which the applicant is applying for license and has passed a recognized standard national examination in speech-language pathology."

Chapter 110 Section 3 Laws 2015

SECTION 3. Section 61-14B-12.1 NMSA 1978 (being Laws 2005, Chapter 250, Section 3, as amended) is amended to read:

"61-14B-12.1. REQUIREMENTS FOR LICENSURE--AUDIOLOGIST.--

A. A license to practice as an audiologist shall be issued to any person who:

(1) files a completed application, accompanied by the required fees and documentation;

(2) certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and

(3) submits satisfactory evidence that the applicant:

(a) holds a doctor of audiology degree or an equivalent degree regardless of degree name and meets the academic requirements for certification by a national professional association, as determined by the board by rule;

(b) has passed a nationally recognized standard examination in audiology, if required by rule; and

(c) has earned certification by a national professional association as evidence that the applicant meets the clinical experience and examination requirements of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

B. A license to practice as an audiologist shall be issued to a person who:

(1) files a completed application, accompanied by the required fees and documentation;

(2) certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978;

(3) submits satisfactory evidence that the applicant:

(a) holds a master's degree in audiology or communication disorders or an equivalent degree in audiology or communication disorders or an equivalent degree awarded prior to January 1, 2007; has met the academic requirements for certification by a national professional association; and has earned certification by a national professional association in the area in which the applicant is seeking licensure; or

(b) has completed the current academic, practicum and employment experience requirements for certification by a national professional association and has passed a nationally recognized standard examination in audiology; and

(4) provides evidence satisfactory to the board of at least six months' experience in the dispensing of hearing aids through practical examination or other methods as determined by the board in either a graduate training program or in a work or training experience."

Chapter 110 Section 4 Laws 2015

SECTION 4. Section 61-14B-13 NMSA 1978 (being Laws 1996, Chapter 57, Section 13, as amended) is amended to read:

"61-14B-13. REQUIREMENTS FOR ENDORSEMENT TO DISPENSE HEARING AIDS AS AN OTOLARYNGOLOGIST.--An endorsement to practice hearing aid

dispensing shall be issued to a licensed otolaryngologist who files a completed application accompanied by the required fees and documentation and who:

A. provides evidence satisfactory to the board of at least six months' experience in the dispensing of hearing aids through practical examination or other methods as determined by the board in either a graduate training program or in a work or training experience;

B. maintains or occupies a business location, hospital, clinical medical practice or other facility where hearing aids are regularly dispensed;

C. passes the jurisprudence examination given by the board; and

D. certifies that the otolaryngologist is not guilty of any activities listed in Section 61-14B-21 NMSA 1978."

Chapter 110 Section 5 Laws 2015

SECTION 5. Section 61-14B-13.1 NMSA 1978 (being Laws 2013, Chapter 110, Section 16) is amended to read:

"61-14B-13.1. REQUIREMENTS FOR BILINGUAL-MULTICULTURAL ENDORSEMENT.--A bilingual-multicultural endorsement shall be issued to any person who:

A. files a completed application, accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and submits satisfactory evidence that the applicant:

(1) is eligible for and in the process of obtaining a license to practice as a speech-language pathologist;

(2) has completed the required education as determined by rule;

(3) has met experience requirements approved by the board; and

(4) has demonstrated proficiency in the specified language as determined by the board; or

B. files a completed application accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and submits satisfactory evidence that the applicant:

(1) has an active license in good standing in the state of New Mexico as a speech-language pathologist;

(2) has a current bilingual endorsement from the public education department; or

(3) has a minimum of five years practicing with clients who utilize a language other than English and has demonstrated proficiency in the specified language as determined by the board; or

C. files a completed application, accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and submits satisfactory evidence that the applicant:

(1) has a license in good standing in another state or country as a speech-language pathologist;

(2) has a minimum of five years practicing with clients who utilize a language other than English; and

(3) has demonstrated proficiency in the specified language as determined by the board."

Chapter 110 Section 6 Laws 2015

SECTION 6. Section 61-14B-15 NMSA 1978 (being Laws 1996, Chapter 57, Section 15, as amended) is amended to read:

"61-14B-15. REQUIREMENTS FOR LICENSURE--CLINICAL FELLOW OF SPEECH-LANGUAGE PATHOLOGY.--A license to practice as a clinical fellow of speech-language pathology shall be issued to a person who files a completed application, pays the required fees, provides documentation and submits satisfactory evidence that the person:

A. has met all academic course work and practicum requirements for a master's degree in speech-language pathology, speech pathology or communication disorders for certification by a national professional association;

B. certifies that the person has received no reprimands of unprofessional conduct or incompetency;

C. applies for licensure under Section 61-14B-12 NMSA 1978 after completing the clinical fellowship year; and

D. has an appropriate supervisor, as defined in Section 61-14B-2 NMSA 1978."

Chapter 110 Section 7 Laws 2015

SECTION 7. Section 61-14B-21 NMSA 1978 (being Laws 1996, Chapter 57, Section 21) is amended to read:

"61-14B-21. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW.--

A. The board may deny, revoke, suspend or impose conditions upon a license held or applied for under the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act in accordance with the procedures set forth in the Uniform Licensing Act upon findings by the board that the licensee or applicant:

(1) is guilty of fraud or deceit in procuring or attempting to procure a license;

(2) has been convicted of a felony. A certified copy of the record of conviction shall be conclusive evidence of the conviction;

(3) is guilty of incompetence;

(4) is guilty of unprofessional conduct;

(5) is selling or fitting the first hearing aid of a child under sixteen years of age who has not been examined and cleared for the hearing aid by an otolaryngologist or a dispensing audiologist who has earned certification by a national professional association;

(6) is selling or fitting a hearing aid on a person who has not been tested, except for replacement aids;

(7) uses untruthful or misleading advertising;

(8) makes any representation as being a medical doctor when the licensee or applicant is not a licensed medical doctor;

(9) is addicted to the use of habit-forming drugs or is addicted to a substance to such a degree as to render the licensee or applicant unfit to practice as a speech-language pathologist, dispensing or nondispensing audiologist or hearing aid dispenser;

(10) is guilty of unprofessional conduct, as defined by regulation of the board;

(11) is guilty of a violation of the Controlled Substances Act;

(12) has violated a provision of the

Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(13) is guilty of willfully or negligently practicing beyond the scope of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(14) is guilty of aiding or abetting the practice of speech-language pathology, audiology or hearing aid dispensing by a person not licensed by the board;

(15) is guilty of practicing without a license in violation of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and its regulations; or

(16) has had a license, certificate or registration to practice speech-language pathology, audiology or hearing aid dispensing revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts described in this section. A certified copy of the record of the jurisdiction taking such disciplinary action will be conclusive evidence thereof.

B. Disciplinary proceedings may be initiated by a person filing a sworn complaint. A person filing a sworn complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice."

Senate Bill 200

Approved April 9, 2015

LAWS 2015, CHAPTER 111

AN ACT

RELATING TO MANAGED HEALTH CARE; AMENDING AND ENACTING SECTIONS OF THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO ESTABLISH PROVIDER CREDENTIALING REQUIREMENTS AND DEFINE "CREDENTIALING"; REPEALING A SECTION OF THE NEW MEXICO INSURANCE CODE.

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

Chapter 111 Section 1 Laws 2015

SECTION 1. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The rules shall establish a single credentialing application form for the credentialing of providers.

B. An insurer shall not require a provider to submit information not required by the uniform credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates pursuant to Subsection A of this section shall require primary credential verification no more frequently than every three years.

E. The rules that the superintendent adopts and promulgates pursuant to Subsection A of this section 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 forty-five calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application; and

(2) 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.

F. Except as provided pursuant to Subsection G of this section, an insurer shall reimburse a provider for covered health care services, in accordance with the carrier's standard reimbursement rate, for any claims from the provider that the insurer receives with a date of service more than forty-five calendar days after the date on which the insurer received a complete credentialing application for that provider; provided that:

(1) the provider has submitted a complete credentialing application and any supporting documentation that the insurer has requested in writing within the time frame established in Paragraph (2) of Subsection E of this section;

(2) the insurer has failed to approve or deny the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) of Subsection E of this section;

(3) the provider 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

(4) the provider has professional liability insurance or is covered under the Medical Malpractice Act.

G. In cases where a provider is joining an existing practice or group that has contracted reimbursement rates with an insurer, the insurer shall pay the provider in accordance with the terms of that contract.

H. 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 forty-five days after application.

I. An insurer shall reimburse a provider pursuant to the circumstances set forth in Subsection F 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 carrier received the provider's complete credentialing application.

J. 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 111 Section 2 Laws 2015

SECTION 2. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The rules shall establish a single credentialing application form for the credentialing of providers.

B. An insurer shall not require a provider to submit information not required by the uniform credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates pursuant to Subsection A of this section shall require primary credential verification no more frequently than every three years.

E. The rules that the superintendent adopts and promulgates pursuant to Subsection A of this section 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 forty-five calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application; and

(2) 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.

F. Except as provided pursuant to Subsection G of this section, an insurer shall reimburse a provider for covered health care services, in accordance with the carrier's standard reimbursement rate, for any claims from the provider that the insurer receives with a date of service more than forty-five calendar days after the date on which the insurer received a complete credentialing application for that provider; provided that:

(1) the provider has submitted a complete credentialing application and any supporting documentation that the insurer has requested in writing within the time frame established in Paragraph (2) of Subsection E of this section;

(2) the insurer has failed to approve or deny the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) of Subsection E of this section;

(3) the provider 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

(4) the provider has professional liability insurance or is covered under the Medical Malpractice Act.

G. In cases where a provider is joining an existing practice or group that has contracted reimbursement rates with an insurer, the insurer shall pay the provider in accordance with the terms of that contract.

H. 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 forty-five days after application.

I. An insurer shall reimburse a provider pursuant to the circumstances set forth in Subsection F 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 carrier received the provider's complete credentialing application.

J. 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 111 Section 3 Laws 2015

SECTION 3. Section 59A-46-2 NMSA 1978 (being Laws 1993, Chapter 266, Section 2, as amended) is amended to read:

"59A-46-2. DEFINITIONS.--As used in the Health Maintenance Organization Law:

A. "basic health care services":

(1) means medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory, diagnostic and therapeutic radiological services and services of pharmacists and pharmacist clinicians; but

(2) does not include mental health services or services for alcohol or drug abuse, dental or vision services or long-term rehabilitation treatment;

B. "capitated basis" means fixed per member per month payment or percentage of premium payment wherein the provider assumes the full risk for the cost of contracted services without regard to the type, value or frequency of services provided and includes the cost associated with operating staff model facilities;

C. "carrier" means a health maintenance organization, an insurer, a nonprofit health care plan or other entity responsible for the payment of benefits or provision of services under a group contract;

D. "copayment" means an amount an enrollee must pay in order to receive a specific service that is not fully prepaid;

E. "credentialing" means the process of obtaining and verifying information about a provider and evaluating that provider when that provider seeks to become a participating provider;

F. "deductible" means the amount an enrollee is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment;

G. "enrollee" means an individual who is covered by a health maintenance organization;

H. "evidence of coverage" means a policy, contract or certificate showing the essential features and services of the health maintenance organization coverage that is given to the subscriber by the health maintenance organization or by the group contract holder;

I. "extension of benefits" means the continuation of coverage under a particular benefit provided under a contract or group contract following termination with respect to an enrollee who is totally disabled on the date of termination;

J. "grievance" means a written complaint submitted in accordance with the health maintenance organization's formal grievance procedure by or on behalf of the enrollee regarding any aspect of the health maintenance organization relative to the enrollee;

K. "group contract" means a contract for health care services that by its terms limits eligibility to members of a specified group and may include coverage for dependents;

L. "group contract holder" means the person to whom a group contract has been issued;

M. "health care services" means any services included in the furnishing to any individual of medical, mental, dental, pharmaceutical or optometric care or hospitalization or nursing home care or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human physical or mental illness or injury;

N. "health maintenance organization" means any person who undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments or deductibles;

O. "health maintenance organization agent" means a person who solicits, negotiates, effects, procures, delivers, renews or continues a policy or contract for health maintenance organization membership or who takes or transmits a membership fee or premium for such a policy or contract, other than for that person, or a person who advertises or otherwise makes any representation to the public as such;

P. "individual contract" means a contract for health care services issued to and covering an individual and it may include dependents of the subscriber;

Q. "insolvent" or "insolvency" means that the organization has been declared insolvent and placed under an order of liquidation by a court of competent jurisdiction;

R. "managed hospital payment basis" means agreements in which the financial risk is related primarily to the degree of utilization rather than to the cost of services;

S. "net worth" means the excess of total admitted assets over total liabilities, but the liabilities shall not include fully subordinated debt;

T. "participating provider" means a provider as defined in Subsection X of this section who, under an express contract with the health maintenance organization or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the health maintenance organization;

U. "person" means an individual or other legal entity;

V. "pharmacist" means a person licensed as a pharmacist pursuant to the Pharmacy Act;

W. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act;

X. "provider" means a physician, pharmacist, pharmacist clinician, hospital or other person licensed or otherwise authorized to furnish health care services;

Y. "replacement coverage" means the benefits provided by a succeeding carrier;

Z. "subscriber" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the health maintenance organization or, in the case of an individual contract, the person in whose name the contract is issued; and

AA. "uncovered expenditures" means the costs to the health maintenance organization for health care services that are the obligation of the health maintenance organization, for which an enrollee may also be liable in the event of the health maintenance organization's insolvency and for which no alternative arrangements have been made that are acceptable to the superintendent."

Chapter 111 Section 4 Laws 2015

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

"PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The rules shall establish a single credentialing application form for the credentialing of providers.

B. A carrier shall not require a provider to submit information not required by the uniform credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates pursuant to Subsection A of this section shall require primary credential verification no more frequently than every three years.

E. The rules that the superintendent adopts and promulgates pursuant to Subsection A of this section 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 forty-five calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application; and

(2) 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.

F. Except as provided pursuant to Subsection G of this section, a carrier shall reimburse a provider for covered health care services, in accordance with the carrier's standard reimbursement rate, for any claims from the provider that the carrier receives with a date of service more than forty-five calendar days after the date on which the carrier received a complete credentialing application for that provider; provided that:

(1) the provider has submitted a complete credentialing application and any supporting documentation that the carrier has requested in writing within the time frame established in Paragraph (2) of Subsection E of this section;

(2) the carrier has failed to approve or deny the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) of Subsection E of this section;

(3) the provider 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

(4) the provider has professional liability insurance or is covered under the Medical Malpractice Act.

G. In cases where a provider is joining an existing practice or group that has contracted reimbursement rates with a carrier, the carrier shall pay the provider in accordance with the terms of that contract.

H. 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 forty-five days after application.

I. A carrier shall reimburse a provider pursuant to the circumstances set forth in Subsection F 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 111 Section 5 Laws 2015

SECTION 5. Section 59A-47-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.1, as amended) is amended to read:

"59A-47-3. DEFINITIONS.--As used in Chapter 59A, Article 47 NMSA 1978:

A. "health care" means the treatment of persons for the prevention, cure or correction of any illness or physical or mental condition, including optometric services;

B. "item of health care" includes any services or materials used in health care;

C. "health care expense payment" means a payment for health care to a purveyor on behalf of a subscriber, or such a payment to the subscriber;

D. "purveyor" means a person who furnishes any item of health care and charges for that item;

E. "service benefit" means a payment that the purveyor has agreed to accept as payment in full for health care furnished the subscriber;

F. "indemnity benefit" means a payment that the purveyor has not agreed to accept as payment in full for health care furnished the subscriber;

G. "subscriber" means any individual who, because of a contract with a health care plan entered into by or for the individual, is entitled to have health care expense payments made on the individual's behalf or to the individual by the health care plan;

H. "underwriting manual" means the health care plan's written criteria, approved by the superintendent, that defines the terms and conditions under which

subscribers may be selected. The underwriting manual may be amended from time to time, but amendment will not be effective until approved by the superintendent. The superintendent shall notify the health care plan filing the underwriting manual or the amendment thereto of the superintendent's approval or disapproval thereof in writing within thirty days after filing or within sixty days after filing if the superintendent shall so extend the time. If the superintendent fails to act within such period, the filing shall be deemed to be approved;

I. "acquisition expenses" includes all expenses incurred in connection with the solicitation and enrollment of subscribers;

J. "administration expenses" means all expenses of the health care plan other than the cost of health care expense payments and acquisition expenses;

K. "health care plan" means a nonprofit corporation authorized by the superintendent to enter into contracts with subscribers and to make health care expense payments;

L. "agent" means a person appointed by a health care plan authorized to transact business in this state to act as its representative in any given locality for soliciting health care policies and other related duties as may be authorized;

M. "solicitor" means a person employed by the licensed agent of a health care plan for the purpose of soliciting health care policies and other related duties in connection with the handling of the business of the agent as may be authorized and paid for the person's services either on a commission basis or salary basis or part by commission and part by salary;

N. "chiropractor" means any person holding a license provided for in the Chiropractic Physician Practice Act;

O. "doctor of oriental medicine" means any person licensed as a doctor of oriental medicine under the Acupuncture and Oriental Medicine Practice Act;

P. "pharmacist" means a person licensed as a pharmacist pursuant to the Pharmacy Act;

Q. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act;

R. "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

S. "provider" means a physician or other individual licensed or otherwise authorized to furnish health care services in the state."

Chapter 111 Section 6 Laws 2015

SECTION 6. A new section of Chapter 59A, Article 47 NMSA 1978 is enacted to read:

"PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The rules shall establish a single credentialing application form for the credentialing of providers.

B. A health care plan shall not require a provider to submit information not required by the uniform credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates pursuant to Subsection A of this section shall require primary credential verification no more frequently than every three years.

E. The rules that the superintendent adopts and promulgates pursuant to Subsection A of this section 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 forty-five calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application; and

(2) 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.

F. Except as provided pursuant to Subsection G of this section, a health care plan shall reimburse a provider for covered health care services, in accordance with the carrier's standard reimbursement rate, for any claims from the provider that the insurer receives with a date of service more than forty-five calendar days after the date

on which the insurer received a complete credentialing application for that provider; provided that:

(1) the provider has submitted a complete credentialing application and any supporting documentation that the insurer has requested in writing within the time frame established in Paragraph (2) of Subsection E of this section;

(2) the insurer has failed to approve or deny the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) of Subsection E of this section;

(3) the provider 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

(4) the provider has professional liability insurance or is covered under the Medical Malpractice Act.

G. In cases where a provider is joining an existing practice or group that has contracted reimbursement rates with a health care plan, the insurer shall pay the provider in accordance with the terms of that contract.

H. 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 forty-five days after application.

I. A health care plan shall reimburse a provider pursuant to the circumstances set forth in Subsection F 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 carrier received the provider's complete credentialing application."

Chapter 111 Section 7 Laws 2015

SECTION 7. REPEAL.--Section 59A-2-9.5 NMSA 1978 (being Laws 2003, Chapter 235, Section 3) is repealed.

Approved April 9, 2015

LAWS 2015, CHAPTER 112

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING THE WASTEWATER FACILITY CONSTRUCTION LOAN ACT TO INCLUDE MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION IN THE DEFINITION OF "LOCAL AUTHORITY"; EXTENDING THE LOAN REPAYMENT PERIOD.

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

Chapter 112 Section 1 Laws 2015

SECTION 1. Section 74-6A-3 NMSA 1978 (being Laws 1986, Chapter 72, Section 3, as amended) is amended to read:

"74-6A-3. DEFINITIONS.--As used in the Wastewater Facility Construction Loan Act:

A. "administrative fee" means a fee assessed and collected by the department from a local authority on each loan and expressed as a percentage per year on the outstanding principal amount of the loan, payable by the borrower on the same date that principal and interest on the loan are due, for deposit in the clean water administrative fund;

B. "commission" means the water quality control commission;

C. "division" or "department" means the department of environment;

D. "financial assistance" means loans, the purchase or refinancing of existing local political subdivision obligations, loan guarantees, credit enhancement techniques to reduce interest on loans and bonds, bond insurance and bond guarantees or any combination of these purposes;

E. "fund" means the wastewater facility construction loan fund;

F. "local authority" means any municipality, county, incorporated county, mutual domestic water consumers association as defined by the Sanitary Projects Act, sanitation district, water and sanitation district or any similar district, recognized Indian tribe or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection;

G. "operate and maintain" means to perform all necessary activities, including replacement of equipment or appurtenances, to ensure the dependable and economical function of a wastewater facility in accordance with its intended purpose;

H. "wastewater facility" means a publicly owned system for treating or disposing of sewage or wastes either by surface or underground methods, including any equipment, plant, treatment works, structure, machinery, apparatus or land, in any combination, that is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes or for the final disposal of residues resulting from the treatment of water or wastes, such as pumping and ventilating stations, facilities, plants and works, outfall sewers, interceptor sewers and collector sewers and other real or personal property and appurtenances incident to their use or operation. "Wastewater facility" also includes a nonpoint source water pollution control project as eligible under the Clean Water Act;

I. "account" means the wastewater suspense account;

J. "board" means the state board of finance;

K. "bonds" means wastewater bonds or other obligations authorized by the commission to be issued by the board pursuant to the Wastewater Facility Construction Loan Act;

L. "Clean Water Act" means the federal Clean Water Act of 1977 and its subsequent amendments or successor provisions;

M. "federal securities" means direct obligations of the United States, or obligations the principal and interest of which are unconditionally guaranteed by the United States, or an ownership interest in either of the foregoing;

N. "force account construction" means construction performed by the employees of a local authority rather than through a contractor;

O. "holders" means persons who are owners of bonds, whether registered or not, issued pursuant to the Wastewater Facility Construction Loan Act;

P. "issuing resolution" means a formal statement adopted by the board to issue bonds pursuant to the Wastewater Facility Construction Loan Act, including any trust agreement, trust indenture or similar instrument providing terms and conditions for the bonds to be issued; and

Q. "recommending resolution" means a formal statement adopted by the commission recommending to the board that bonds be issued pursuant to the Wastewater Facility Construction Loan Act, including any trust agreement, trust indenture or similar instrument providing the terms and conditions for the bonds that are issued."

Chapter 112 Section 2 Laws 2015

SECTION 2. Section 74-6A-8 NMSA 1978 (being Laws 1991, Chapter 172, Section 6) is amended to read:

"74-6A-8. FINANCIAL ASSISTANCE--CRITERIA.--

A. Financial assistance shall be provided only to local authorities that:

(1) meet the requirements for financial capability set by the division to assure sufficient revenues to operate and maintain the wastewater facility for its useful life and to repay the financial assistance;

(2) agree to operate and maintain the wastewater facility so that the facility will function properly over its structural and material design life;

(3) agree to maintain separate project accounts, to maintain project accounts properly in accordance with generally accepted governmental accounting standards and to conduct an audit of the project's financial records;

(4) provide a written assurance, signed by an attorney, that the local authority has or will acquire proper title, easements and rights of way to the property upon or through which the wastewater facility proposed for funding is to be constructed or extended;

(5) require the contractor of the wastewater facility construction project to post a performance and payment bond in accordance with the requirements of Section 13-4-18 NMSA 1978 and its subsequent amendments and successor provisions;

(6) provide a written notice of completion and start of operation of the wastewater facility;

(7) appear on the priority list of the fund, regardless of rank on such list; and

(8) provide such information to the division as required by the commission in order to comply with the provisions of the Clean Water Act and state law.

B. Loans shall be made only to local authorities that establish one or more dedicated sources of revenue to repay the money received from the commission and to provide for operation, maintenance and equipment replacement expenses. A local authority, any existing statute to the contrary notwithstanding, may do any of the following:

(1) obligate itself to pay to the commission at periodic intervals a sum sufficient to provide all or any part of bond debt service with respect to the bonds recommended by the commission and issued by the board to fund the loan for the wastewater facility project of the local authority and pay over the debt service to the account of the wastewater facility project for deposit to the fund;

(2) fulfill any obligation to pay the commission by the issuance of bonds, notes or other obligations in accordance with the laws authorizing issuance of local authority obligations; provided, however that, notwithstanding the provisions of Section 4-54-3 or 6-15-5 NMSA 1978 or other statute or law requiring the public sale of local authority obligations, such obligations may be sold at private sale to the commission at the price and upon the terms and conditions the local authority shall determine;

(3) levy, collect and pay over to the commission and obligate itself to continue to levy, collect and pay over to the commission the proceeds of one or more of the following:

(a) sewer or waste disposal service fees or charges;

(b) licenses, permits, taxes and fees;

(c) special assessments on the property served or benefited by the wastewater facility project; or

(d) other revenue available to the local authority;

(4) undertake and obligate itself to pay its contractual obligation to the commission solely from the proceeds from any of the sources specified in Paragraph (3) of this subsection or, in accordance with the laws authorizing issuance of local authority obligations, impose upon itself a general obligation pledge to the commission additionally secured by a pledge of any of the sources specified in Paragraph (3) of this subsection; or

(5) enter into agreements, perform acts and delegate functions and duties as its governing body shall determine is necessary or desirable to enable the division as agent for the commission to fund a loan to the local authority to aid it in the construction or acquisition of a wastewater facility project.

C. Each loan made by the division as agent for the commission shall provide that repayment of the loan shall begin not later than one year after completion of construction of the wastewater facility project for which the loan was made and shall be repaid in full no later than thirty years after completion of the construction. All principal and interest on loan payments shall be deposited in the fund.

D. Financial assistance shall be made with an annual interest rate to be five percent or less as determined by the commission.

E. A zero-percent interest rate may be approved by the division when the following conditions have been met by the local authority:

(1) the local authority's average user cost is at least fifteen dollars (\$15.00) per month or a higher amount as determined by the commission; and

(2) the local authority's median household income is less than three-fourths of the statewide nonmetropolitan median household income.

F. A local authority may use the proceeds from financial assistance received under the Wastewater Facility Construction Loan Act to provide a local match or any other nonfederal share of a wastewater facility construction project as allowed pursuant to the Clean Water Act.

G. Financial assistance received pursuant to the Wastewater Facility Construction Loan Act shall not be used by a local authority on any wastewater facility project constructed in fulfillment or partial fulfillment of requirements made of a subdivider under the provisions of the Land Subdivision Act or the New Mexico Subdivision Act.

H. Financial assistance shall be made only to local authorities that employ or contract with a registered professional engineer to provide and be responsible for engineering services on the wastewater facility project. Such services include but are not limited to an engineering report, construction contract documents, supervision of construction and start-up services.

I. Financial assistance shall be made only for eligible items. For financial assistance composed entirely of state funds, eligible items include but are not limited to the costs of engineering feasibility reports, contracted engineering design, inspection of construction, special engineering services, start-up services, contracted construction, materials purchased or equipment leased for force account construction, land or acquisition of existing facilities, but eligible items do not include the costs of water rights and local authority administrative costs. For financial assistance made from federal funds, eligible items are those identified pursuant to the Clean Water Act.

J. In the event of default by the local authority, the commission may enforce its rights by suit or mandamus or may utilize all other available remedies under state law."

Approved April 9, 2015

LAWS 2015, CHAPTER 113

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR SMALL BREWERS AND WINEGROWERS TO HOLD A RESTAURANT OR DISPENSER'S LICENSE AND A SMALL BREWER AND WINEGROWER LIMITED WHOLESALER'S LICENSE; PROVIDING FOR ISSUANCE OF A SMALL BREWER AND WINEGROWER LIMITED WHOLESALER'S LICENSE.

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

Chapter 113 Section 1 Laws 2015

SECTION 1. Section 60-7A-12 NMSA 1978 (being Laws 1981, Chapter 39, Section 78, as amended) is amended to read:

"60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES, RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES AND CLUBS.--It is a violation of the Liquor Control Act for any dispenser, canopy licensee, restaurant licensee, governmental licensee or its lessee or club to:

A. receive any alcoholic beverages for the purpose or with the intent of reselling the alcoholic beverages from any person unless the person is duly licensed to sell alcoholic beverages to dispensers for resale;

B. sell; possess for the purpose of sale; or bottle bulk wine for sale other than by the drink for immediate consumption on its licensed premises;

C. directly, indirectly or through subterfuge, own, operate or control any interest in a wholesale liquor establishment or liquor manufacturing or wine bottling firm; provided that this section shall not prevent:

(1) a dispenser from owning an interest in a legal entity, directly or indirectly or through an affiliate, that wholesales alcoholic beverages and that operates or controls an interest in an establishment operating pursuant to the provisions of Subsection B of Section 60-7A-10 NMSA 1978; or

(2) a small brewer or winegrower licensed pursuant to the Domestic Winery, Small Brewery and Craft Distillery Act from holding an interest in a legal entity, directly or indirectly or through an affiliate, that holds a restaurant or a dispenser's license and a small brewer and winegrower limited wholesaler's license issued pursuant to the Liquor Control Act;

D. sell or possess for the purpose of sale any alcoholic beverages at any location or place except its licensed premises or the location permitted pursuant to the provisions of Section 60-6A-12 NMSA 1978;

E. employ or engage a person to sell, serve or dispense alcoholic beverages if the person has not received alcohol server training within thirty days of employment; or

F. employ or engage a person to sell, serve or dispense alcoholic beverages during a period when the server permit of that person is suspended or revoked."

Chapter 113 Section 2 Laws 2015

SECTION 2. A new section of Chapter 60, Article 6A NMSA 1978 is enacted to read:

"SMALL BREWER AND WINEGROWER LIMITED WHOLESALER'S LICENSE.--
In any local option district, a small brewer or a winegrower that is licensed pursuant to the Domestic Winery, Small Brewery and Craft Distillery Act and that also holds a restaurant license or a dispenser's license may apply for and be issued a small brewer and winegrower limited wholesaler's license. A small brewer that holds a small brewer and winegrower limited wholesaler's license shall only sell, offer for sale or ship beer manufactured by the small brewer. A winegrower that holds a small brewer and winegrower limited wholesaler's license shall only sell, offer for sale or ship wine manufactured by the winegrower."

Chapter 113 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SJC/Senate Bill 238

Approved April 9, 2015

LAWS 2015, CHAPTER 114

AN ACT

RELATING TO LICENSURE; AMENDING A SECTION OF THE LIQUOR CONTROL ACT TO PROVIDE FOR LIMITATIONS ON TRANSFERS OF DISPENSER'S AND RETAILER'S LICENSES TO LOCAL OPTION DISTRICTS.

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

Chapter 114 Section 1 Laws 2015

SECTION 1. Section 60-6B-12 NMSA 1978 (being Laws 1981, Chapter 39, Section 113, as amended) is amended to read:

"60-6B-12. INTER-LOCAL OPTION DISTRICT AND INTER-COUNTY TRANSFERS.--

A. Dispenser's and retailer's licenses originally issued before July 1, 1981, except rural dispenser's and rural retailer's licenses and canopy licenses that were replaced by dispenser's licenses pursuant to Section 60-6B-16 NMSA 1978, may be transferred to any location within the state, except class B counties having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census, the municipalities located within those class B counties and any municipality or county that prohibits by election the transfer of a license from another local option district, without regard to the limitations on the maximum number of licenses provided in Section 60-6A-18 NMSA 1978, not otherwise contrary to law, subject to the approval of transferring locations of those liquor licenses by the governing body for that location; provided that the requirements of the Liquor Control Act and department regulations for the transfer of licenses are fulfilled; and provided further that:

(1) beginning in calendar year 1997, no more than ten dispenser's or retailer's licenses shall be transferred to any local option district in any calendar year; and

(2) the dispenser's or retailer's licenses transferred under this section shall count in the computation of the limitation of the maximum number of licenses that may be issued in the future in any local option district as provided in Section 60-6A-18 NMSA 1978 for the purpose of determining whether additional licenses may be issued in the local option district under the provisions of Subsection H of Section 60-6B-2 NMSA 1978.

B. Transfer of location of a liquor license pursuant to Subsection A of this section shall become effective upon approval of the local governing body, unless within one hundred twenty days after the effective date of the Liquor Control Act a petition requesting an election on the question of approval of statewide transfers of liquor licenses into that local option district is filed with the clerk of the local option district and the petition is signed by at least five percent of the number of registered voters of the district. The clerk of the district shall verify the petition signatures. If the petition is verified as containing the required number of signatures of registered voters, the governing body shall adopt a resolution calling an election on the question of approving or disapproving statewide transfers of liquor licenses into that district. Notice of such election shall be published as provided in Section 3-8-35 NMSA 1978, and the election shall be held within sixty days after the date the petition is verified or it may be held in

conjunction with a regular election of the governing body if such election occurs within sixty days after the date of verification. If a majority of the registered voters of the district voting in such election votes to approve statewide transfers of liquor licenses into the local option district, each license proposing to be transferred shall be subject to the approval of the governing body. If the voters of the district voting in the election vote against the approval, then all statewide transfers of liquor licenses pursuant to Subsection A of this section shall be prohibited in that district, unless a petition is filed requesting the question be again submitted to the voters as provided in this subsection. The question of approving or disapproving statewide transfers of liquor licenses into the local option district shall not be submitted again within two years from the date of the last election on the question.

C. Any dispenser's license transferred pursuant to this section outside its local option district shall only entitle the licensee to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises.

D. Rural dispenser's, rural retailer's and rural club licenses issued under any former act may be transferred to any location, subject to the restrictions as to location contained in the Liquor Control Act, within the unincorporated area of the county in which they are currently located; provided that they shall not be transferred to any location within ten miles of another licensed premises; and provided further that all requirements of the Liquor Control Act and department regulations for the transfer of licenses are fulfilled."

Senate Bill 241

Approved April 9, 2015

LAWS 2015, CHAPTER 115

AN ACT

RELATING TO VETERANS; PROVIDING AN EXEMPTION FROM THE IMPOSITION OF A SPECIAL BENEFIT ASSESSMENT FOR DISABLED VETERANS.

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

Chapter 115 Section 1 Laws 2015

SECTION 1. PROPERTY OWNED BY A DISABLED VETERAN IS EXEMPT FROM A SPECIAL BENEFIT ASSESSMENT.--

A. Property owned by a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from the imposition of a

special benefit assessment if the property is occupied by the disabled veteran as the veteran's principal place of residence. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from the imposition of a special benefit assessment if the property otherwise meets the requirements for exemption in this subsection or Subsection B of this section.

B. The property of the surviving spouse of a disabled veteran is exempt from the imposition of a special benefit assessment if:

(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death;

(2) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence; and

(3) the surviving spouse has remained unmarried since the time of the disabled veteran's death.

C. For purposes of this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a one hundred percent permanent and total service-connected disability;

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge; and

(3) "special benefit assessment" means an assessment or levy authorized by law for benefits, damages, construction, improvements or maintenance on property that is specially benefited by the benefits, damages, construction, improvements or maintenance; and includes an assessment or levy authorized by The Conservancy Act of New Mexico, the Public Improvement District Act, the Tax Increment for Development Act and other similar laws outside the Property Tax Code.

Approved April 9, 2015

LAWS 2015, CHAPTER 116

AN ACT

RELATING TO HEALTH CARE; UPDATING CERTAIN SECTIONS OF LAW TO INCLUDE AN ADVANCED PRACTICE REGISTERED NURSE, A CERTIFIED NURSE-MIDWIFE OR A PHYSICIAN ASSISTANT WORKING WITHIN THAT PERSON'S SCOPE OF PRACTICE; EXPANDING CERTAIN PROVISIONS OF THE UNIFORM HEALTH-CARE DECISIONS ACT TO INCLUDE NON-PHYSICIAN PRIMARY CARE PRACTITIONERS; REQUIRING STATE AGENCIES AND POLITICAL SUBDIVISIONS TO UPDATE THEIR RULES TO INCLUDE THESE HEALTH CARE PRACTITIONERS WHERE APPROPRIATE.

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

Chapter 116 Section 1 Laws 2015

SECTION 1. Section 7-2-18.1 NMSA 1978 (being Laws 1981, Chapter 170, Section 1, as amended) is amended to read:

"7-2-18.1. CREDIT FOR EXPENSES FOR DEPENDENT CHILD DAY CARE NECESSARY TO ENABLE GAINFUL EMPLOYMENT TO PREVENT INDIGENCY.--

A. As used in this section:

(1) "caregiver" means a corporation or an individual eighteen years of age or over who receives compensation from a resident for providing direct care, supervision and guidance to a qualifying dependent of the resident for less than twenty-four hours daily and includes related individuals of the resident but does not include a dependent of the resident;

(2) "cost of maintaining a household" means the expenses incurred for the mutual benefit of the occupants thereof by reason of its operation as the principal place of abode of such occupants, including property taxes, mortgage interest, rent, utility charges, upkeep and repairs, property insurance and food consumed on the premises. "Cost of maintaining a household" shall not include expenses otherwise incurred, including cost of clothing, education, medical treatment, vacations, life insurance, transportation and mortgages;

(3) "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code, 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;

(4) "disabled person" means a person who has a medically determinable physical or mental impairment, as certified by a licensed physician or an advanced practice registered nurse, certified nurse-midwife or physician assistant working within that person's scope of practice, that renders such person unable to engage in gainful employment;

(5) "gainfully employed" means working for remuneration for others, either full time or part time, or self-employment in a business or partnership; and

(6) "qualifying dependent" means a dependent under the age of fifteen at the end of the taxable year who receives the services of a caregiver.

B. Any resident who files an individual New Mexico income tax return and who is not a dependent of another taxpayer may claim a credit for child day care expenses incurred and paid to a caregiver in New Mexico during the taxable year by such resident if the resident:

(1) singly or together with a spouse furnishes over half the cost of maintaining the household for one or more qualifying dependents for any period in the taxable year for which the credit is claimed;

(2) is gainfully employed for any period for which the credit is claimed or, if a joint return is filed, both spouses are gainfully employed or one is disabled for any period for which the credit is claimed;

(3) compensates a caregiver for child day care for a qualifying dependent to enable such resident together with the resident's spouse, if any and if not disabled, to be gainfully employed;

(4) is not a recipient of public assistance under a program of aid to families with dependent children, a program under the New Mexico Works Act or any successor program during any period for which the credit provided by this section is claimed; and

(5) has a modified gross income, including child support payments, if any, of not more than the annual income that would be derived from earnings at double the federal minimum wage.

C. The credit provided for in this section shall be forty percent of the actual compensation paid to a caregiver by the resident for a qualifying dependent not to exceed four hundred eighty dollars (\$480) for each qualifying dependent or a total of one thousand two hundred dollars (\$1,200) for all qualifying dependents for a taxable year. For the purposes of computing the credit, actual compensation shall not exceed eight dollars (\$8.00) per day for each qualifying dependent.

D. The caregiver shall furnish the resident with a signed statement of compensation paid by the resident to the caregiver for day care services. Such statements shall specify the dates and the total number of days for which payment has been made.

E. If the resident taxpayer has a federal tax liability, the taxpayer shall claim from the state not more than the difference between the amount of the state child care credit for which the taxpayer is eligible and the federal credit for child and dependent care expenses the taxpayer is able to deduct from federal tax liability for the same taxable year; provided, for first year residents only, the amount of the federal credit for child and dependent care expenses may be reduced to an amount equal to the amount of federal credit for child and dependent care expenses the resident is able to deduct from federal tax liability multiplied by the ratio of the number of days of residence in New Mexico during the resident's taxable year to the total number of days in the resident's taxable year.

F. The credit provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the credit exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

G. A husband and wife maintaining a household for one or more qualifying dependents and filing separate returns for a taxable year for which they could have filed a joint return:

(1) may each claim only one-half of the credit that would have been claimed on a joint return; and

(2) are eligible for the credit provided in this section only if their joint modified gross income, including child support payments, if any, is not more than the annual income that would be derived from earnings at double the federal minimum wage."

Chapter 116 Section 2 Laws 2015

SECTION 2. Section 12-10A-13 NMSA 1978 (being Laws 2003, Chapter 218, Section 13) is amended to read:

"12-10A-13. VACCINATION AND TREATMENT.--

A. During a state of public health emergency, a qualified person authorized by the secretary of health may vaccinate persons to prevent infection by a threatening communicable disease and to protect against the spread of that disease.

B. To protect against the spread of a threatening communicable disease, the secretary of health may isolate or quarantine a person who is unable or unwilling for

reasons of health, religion or conscience to undergo vaccination pursuant to the standards and procedures set forth in the Public Health Emergency Response Act.

C. A qualified person authorized by the secretary of health may vaccinate a minor less than eighteen years of age, unless the minor or the minor's duly authorized representative presents a certificate issued by a duly licensed physician or an advanced practice registered nurse, certified nurse-midwife or physician assistant working within that person's scope of practice that states that the minor's physical condition is such that the vaccination would seriously endanger the minor's life or health.

D. During a state of public health emergency, in order to provide treatment to a person who is exposed to or infected with a threatening communicable disease:

(1) treatment may be administered by a public health official;

(2) treatment shall be approved pursuant to appropriate regulations promulgated by the federal food and drug administration; and

(3) the secretary of health may isolate or quarantine a person who is unable or unwilling, for reasons of health, religion or conscience, to undergo treatment pursuant to the standards and procedures set forth in the Public Health Emergency Response Act."

Chapter 116 Section 3 Laws 2015

SECTION 3. Section 22-10A-34 NMSA 1978 (being Laws 1967, Chapter 16, Section 112, as amended) is amended to read:

"22-10A-34. COMMUNICABLE DISEASES--PROHIBITED EMPLOYMENT--PENALTY.--

A. No person afflicted with a communicable disease in a transmissible stage dangerous to the health of students shall be employed in a public or private school in this state.

B. The department of health after consultation with the public education department shall adopt and issue regulations designating those communicable diseases in a transmissible stage that are dangerous to the health of students.

C. Each person employed in a public or private school, including bus drivers, shall present to the governing authority of the school where employed, upon initial employment, a certificate from a licensed physician or an advanced practice registered nurse, certified nurse-midwife or physician assistant working within that person's scope of practice stating that the person is free from all communicable diseases in a transmissible stage dangerous to the health of students.

D. The certificate from a licensed physician or an advanced practice registered nurse, certified nurse-midwife or physician assistant working within that person's scope of practice shall be according to a form prescribed by the department of health and approved by the public education department. The certificate shall be obtained from a licensed physician or an advanced practice registered nurse, certified nurse-midwife or physician assistant working within that person's scope of practice not more than ninety days prior to the date of employment.

E. Any person violating the provisions of this section by not obtaining a certificate from a licensed physician or an advanced practice registered nurse, certified nurse-midwife or physician assistant working within that person's scope of practice as required is guilty of a petty misdemeanor."

Chapter 116 Section 4 Laws 2015

SECTION 4. Section 24-7A-1 NMSA 1978 (being Laws 1995, Chapter 182, Section 1, as amended) is amended to read:

"24-7A-1. DEFINITIONS.--As used in the Uniform Health-Care Decisions Act:

A. "advance health-care directive" means an individual instruction or a power of attorney for health care made, in either case, while the individual has capacity;

B. "agent" means an individual designated in a power of attorney for health care to make a health-care decision for the individual granting the power;

C. "capacity" means an individual's ability to understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care and to make and communicate an informed health-care decision. A determination of lack of capacity shall be made only according to the provisions of Section 24-7A-11 NMSA 1978;

D. "emancipated minor" means an individual between the ages of sixteen and eighteen who has been married, who is on active duty in the armed forces or who has been declared by court order to be emancipated;

E. "guardian" means a judicially appointed guardian or conservator having authority to make a health-care decision for an individual;

F. "health care" means any care, treatment, service or procedure to maintain, diagnose or otherwise affect an individual's physical or mental condition;

G. "health-care decision" means a decision made by an individual or the individual's agent, guardian or surrogate, regarding the individual's health care, including:

(1) selection and discharge of health-care practitioners and institutions;

(2) approval or disapproval of diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate;

(3) directions relating to life-sustaining treatment, including withholding or withdrawing life-sustaining treatment and the termination of life support; and

(4) directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care;

H. "health-care institution" means an institution, facility or agency licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business;

I. "health-care practitioner" means an individual licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession;

J. "individual instruction" means an individual's direction concerning a health-care decision for the individual made while the individual has capacity;

K. "life-sustaining treatment" means any medical treatment or procedure without which the individual is likely to die within a relatively short time, as determined to a reasonable degree of medical certainty by the primary care practitioner;

L. "person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency or instrumentality or any other legal or commercial entity;

M. "physician" means an individual authorized to practice medicine or osteopathy;

N. "power of attorney for health care" means the designation of an agent to make health-care decisions for the individual granting the power, made while the individual has capacity;

O. "primary care practitioner" means a health-care practitioner designated by an individual or the individual's agent, guardian or surrogate to have primary responsibility for the individual's health care;

P. "principal" means an adult or emancipated minor who, while having capacity, has made a power of attorney for health care by which the adult or

emancipated minor delegates the right to make health-care decisions for the adult or emancipated minor to an agent;

Q. "protected person" means an adult or emancipated minor for whom a guardian has been appointed;

R. "qualified health-care professional" means a health-care practitioner who is a physician, physician assistant, nurse practitioner, nurse, psychologist or social worker;

S. "reasonably available" means readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health-care needs;

T. "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico or a territory or insular possession subject to the jurisdiction of the United States;

U. "supervising health-care practitioner" means the primary care practitioner, or if there is no primary care practitioner or if the primary care practitioner is not reasonably available, the health-care practitioner who has undertaken primary responsibility for an individual's health care; and

V. "surrogate" means an individual, other than a patient's agent or guardian, authorized under the Uniform Health-Care Decisions Act to make a health-care decision for the patient."

Chapter 116 Section 5 Laws 2015

SECTION 5. Section 24-7A-4 NMSA 1978 (being Laws 1995, Chapter 182, Section 4, as amended) is amended to read:

"24-7A-4. OPTIONAL FORM.--The following form may, but need not, be used to create an advance health-care directive. The other sections of the Uniform Health-Care Decisions Act govern the effect of this or any other writing used to create an advance health-care directive. An individual may complete or modify all or any part of the following form:

"OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE

Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health-care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding the designation of your primary care practitioner.

THIS FORM IS OPTIONAL. Each paragraph and word of this form is also optional. If you use this form, you may cross out, complete or modify all or any part of it. You are free to use a different form. If you use this form, be sure to sign it and date it.

PART 1 of this form is a power of attorney for health care. PART 1 lets you name another individual as agent to make health-care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may also name an alternate agent to act for you if your first choice is not willing, able or reasonably available to make decisions for you. Unless related to you, your agent may not be an owner, operator or employee of a health-care institution at which you are receiving care.

Unless the form you sign limits the authority of your agent, your agent may make all health-care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health-care decisions that may have to be made. If you choose not to limit the authority of your agent, your agent will have the right to:

- (a) consent or refuse consent to any care, treatment, service or procedure to maintain, diagnose or otherwise affect a physical or mental condition;
- (b) select or discharge health-care practitioners and institutions;
- (c) approve or disapprove diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and
- (d) direct the provision, withholding or withdrawal of artificial nutrition and hydration and all other forms of health care.

PART 2 of this form lets you give specific instructions about any aspect of your health care. Choices are provided for you to express your wishes regarding life-sustaining treatment, including the provision of artificial nutrition and hydration, as well as the provision of pain relief. In addition, you may express your wishes regarding whether you want to make an anatomical gift of some or all of your organs and tissue. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes.

PART 3 of this form lets you designate a primary care practitioner to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. It is recommended but not required that you request two other individuals to sign as witnesses. Give a copy of the signed and completed form to your physician, to any other health-care practitioners you may have, to any health-care institution at which you are receiving care and to any health-care agents you have named. You should talk to the person you

have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health-care directive or replace this form at any time.

PART 1

POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health-care decisions for me:

(name of individual you choose as agent)

(city)

(state)

(zip code)

(home phone)

(work phone)

If I revoke my agent's authority or if my agent is not willing, able or reasonably available to make a health-care decision for me, I designate as my first alternate agent:

(name of individual you choose as first alternate agent)

(city)

(state)

(zip code)

(home phone)

(work phone)

If I revoke the authority of my agent and first alternate agent or if neither is willing, able or reasonably available to make a health-care decision for me, I designate as my second alternate agent:

(name of individual you choose as second alternate agent)

(city)

(state)

(zip code)

(home phone)

(work phone)

(2) AGENT'S AUTHORITY: My agent is authorized to obtain and review medical records, reports and information about me and to make all health-care decisions for me, including decisions to provide, withhold or withdraw artificial nutrition, hydration and all other forms of health care to keep me alive, except as I state here:

(Add additional sheets if needed.)

(3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my primary care practitioner and one other qualified health-care professional determine that I am unable to make my own health-care decisions. If I initial this box [], my agent's authority to make health-care decisions for me takes effect immediately.

(4) AGENT'S OBLIGATION: My agent shall make health-care decisions for me in accordance with this power of attorney for health care, any instructions I give in PART 2 of this form and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health-care decisions for me in accordance with what my agent determines to be in my best interest. In determining my

best interest, my agent shall consider my personal values to the extent known to my agent.

(5) NOMINATION OF GUARDIAN: If a guardian of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able or reasonably available to act as guardian, I nominate the alternate agents whom I have named, in the order designated.

PART 2

INSTRUCTIONS FOR HEALTH CARE

If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out this part of the form. If you do fill out this part of the form, you may cross out any wording you do not want.

(6) END-OF-LIFE DECISIONS: If I am unable to make or communicate decisions regarding my health care, and IF (i) I have an incurable or irreversible condition that will result in my death within a relatively short time, OR (ii) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, OR (iii) the likely risks and burdens of treatment would outweigh the expected benefits, THEN I direct that my health-care practitioners and others involved in my care provide, withhold or withdraw treatment in accordance with the choice I have initialed below in one of the following three boxes:

I CHOOSE NOT To Prolong Life

I do not want my life to be prolonged.

I CHOOSE To Prolong Life

I want my life to be prolonged as long as possible within the limits of generally accepted health-care standards.

I CHOOSE To Let My Agent Decide

My agent under my power of attorney for health care may make life-sustaining treatment decisions for me.

(7) ARTIFICIAL NUTRITION AND HYDRATION: If I have chosen above NOT to prolong life, I also specify by marking my initials below:

I DO NOT want artificial nutrition OR

I DO want artificial nutrition.

OR I DO NOT want artificial hydration unless required for my comfort

I DO want artificial hydration.

(8) RELIEF FROM PAIN: Regardless of the choices I have made in this form and except as I state in the following space, I direct that the best medical care possible to keep me clean, comfortable and free of pain or discomfort be provided at all times so that my dignity is maintained, even if this care hastens my death:

(9) ANATOMICAL GIFT DESIGNATION: Upon my death I specify as marked below whether I choose to make an anatomical gift of all or some of my organs or tissue:

I CHOOSE to make an anatomical gift of all of my organs or tissue to be determined by medical suitability at the time of death, and artificial support may be maintained long enough for organs to be removed.

I CHOOSE to make a partial anatomical gift of some of my organs and tissue as specified below, and artificial support may be maintained long enough for organs to be removed.

I REFUSE to make an anatomical gift of any of my organs or tissue.

I CHOOSE to let my agent decide.

(10) OTHER WISHES: (If you wish to write your own instructions, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

(Add additional sheets if needed.)

PART 3

PRIMARY CARE PRACTITIONER

(11) I designate the following as my primary care practitioner:

(name of primary care practitioner)

(city)

(state)

(zip code)

(phone)

If the primary care practitioner I have designated above is not willing, able or reasonably available to act as my primary care practitioner, I designate the following as my primary care practitioner:

(name of primary care practitioner)

(city)

(state)

(zip code)

(phone)

(12) EFFECT OF COPY: A copy of this form has the same effect as the original.

(13) REVOCATION: I understand that I may revoke this OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE at any time, and that if I revoke it, I should promptly notify my supervising health-care practitioner and any health-care institution where I am receiving care and any others to whom I have given copies of this power of attorney. I understand that I may revoke the designation of an agent either by a signed writing or by personally informing the supervising health-care practitioner.

(14) SIGNATURES: Sign and date the form here:

(date)

(sign your name)

(address)

(print your name)

(state)

(your social security number)

(Optional) SIGNATURES OF WITNESSES:

Second witness

(print name)

(address)

(city) (state)

(city) (state)

(signature of witness)

(signature of witness)

(date)

(date)". "

Chapter 116 Section 6 Laws 2015

SECTION 6. Section 24-7A-6.1 NMSA 1978 (being Laws 1997, Chapter 168, Section 13, as amended) is amended to read:

"24-7A-6.1. LIFE-SUSTAINING TREATMENT FOR UNEMANCIPATED MINORS.--

A. Except as otherwise provided by law, a parent or guardian of an unemancipated minor may make that minor's health-care decisions.

B. A parent or guardian of an unemancipated minor shall have the authority to withhold or withdraw life-sustaining treatment for the unemancipated minor, subject to the provisions of this section and the standards for surrogate decision-making for adults provided for in the Uniform Health-Care Decisions Act.

C. Subject to the provisions of Subsection B of this section, if an unemancipated minor has capacity sufficient to understand the nature of that unemancipated minor's medical condition, the risks and benefits of treatment and the contemplated decision to withhold or withdraw life-sustaining treatment, that unemancipated minor shall have the authority to withhold or withdraw life-sustaining treatment.

D. For purposes of Subsection C of this section, a determination of the mental and emotional capacity of an unemancipated minor shall be determined by two qualified health-care professionals, one of whom shall be the unemancipated minor's primary care practitioner and the other of whom shall be a health-care practitioner that works with unemancipated minors of the minor's age in the ordinary course of that health-care practitioner's practice. If the unemancipated minor lacks capacity due to mental illness or developmental disability, one of the qualified health-care professionals shall be a person whose training and expertise aid in the assessment of functional impairment.

E. If the unemancipated minor's primary care practitioner has reason to believe that a parent or guardian of an unemancipated minor, including a non-custodial parent, has not been informed of a decision to withhold or withdraw life-sustaining treatment, the primary care practitioner shall make reasonable efforts to determine if the uninformed parent or guardian has maintained substantial and continuous contact with the unemancipated minor and, if so, shall make reasonable efforts to notify that parent or guardian before implementing a decision.

F. If there is disagreement regarding the decision to withhold or withdraw life-sustaining treatment for an unemancipated minor, the provisions of Section 24-7A-11 NMSA 1978 shall apply."

Chapter 116 Section 7 Laws 2015

SECTION 7. Section 24-7A-7 NMSA 1978 (being Laws 1995, Chapter 182, Section 7, as amended) is amended to read:

"24-7A-7. OBLIGATIONS OF HEALTH-CARE PRACTITIONER.--

A. Before implementing a health-care decision made for a patient, a supervising health-care practitioner shall promptly communicate to the patient the decision made and the identity of the person making the decision.

B. A supervising health-care practitioner who knows of the existence of an advance health-care directive, a revocation of an advance health-care directive, a challenge to a determination of lack of capacity or a designation or disqualification of a surrogate shall promptly record its existence in the patient's health-care record and, if it is in writing, shall request a copy and, if one is furnished, shall arrange for its maintenance in the health-care record.

C. A supervising health-care practitioner who makes or is informed of a determination that a patient lacks or has recovered capacity or that another condition exists that affects an individual instruction or the authority of an agent, guardian or surrogate shall promptly record the determination in the patient's health-care record and communicate the determination to the patient and to any person then authorized to make health-care decisions for the patient.

D. Except as provided in Subsections E and F of this section, a health-care practitioner or health-care institution providing care to a patient shall comply:

(1) before and after the patient is determined to lack capacity, with an individual instruction of the patient made while the patient had capacity;

(2) with a reasonable interpretation of the individual instruction made by a person then authorized to make health-care decisions for the patient; and

(3) with a health-care decision for the patient that is not contrary to an individual instruction of the patient and is made by a person then authorized to make health-care decisions for the patient, to the same extent as if the decision had been made by the patient while having capacity.

E. A health-care practitioner may decline to comply with an individual instruction or health-care decision for reasons of conscience. A health-care institution may decline to comply with an individual instruction or health-care decision if the instruction or decision is contrary to a policy of the health-care institution that is expressly based on reasons of conscience and if the policy was timely communicated to the patient or to a person then authorized to make health-care decisions for the patient.

F. A health-care practitioner or health-care institution may decline to comply with an individual instruction or health-care decision that requires medically

ineffective health care or health care contrary to generally accepted health-care standards applicable to the health-care practitioner or health-care institution. "Medically ineffective health care" means treatment that would not offer the patient any significant benefit, as determined by a health-care practitioner.

G. A health-care practitioner or health-care institution that declines to comply with an individual instruction or health-care decision shall:

(1) promptly so inform the patient, if possible, and any person then authorized to make health-care decisions for the patient;

(2) provide continuing care to the patient until a transfer can be effected; and

(3) unless the patient or person then authorized to make health-care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health-care practitioner or health-care institution that is willing to comply with the individual instruction or decision.

H. A health-care practitioner or health-care institution may not require or prohibit the execution or revocation of an advance health-care directive as a condition for providing health care.

I. The Uniform Health-Care Decisions Act does not require or permit a health-care institution or health-care practitioner to provide any type of health care for which the health-care institution or health-care practitioner is not licensed, certified or otherwise authorized or permitted by law to provide."

Chapter 116 Section 8 Laws 2015

SECTION 8. Section 24-7A-11 NMSA 1978 (being Laws 1995, Chapter 182, Section 11, as amended) is amended to read:

"24-7A-11. CAPACITY.--

A. The Uniform Health-Care Decisions Act does not affect the right of an individual to make health-care decisions while having capacity to do so.

B. An individual is presumed to have capacity to make a health-care decision, to give or revoke an advance health-care directive and to designate a surrogate.

C. Unless otherwise specified in a written advance health-care directive, a determination that an individual lacks or has recovered capacity or that another condition exists that affects an individual instruction or the authority of an agent shall be made by two qualified

health-care professionals, one of whom shall be the primary care practitioner. If the lack of capacity is determined to exist because of mental illness or developmental disability, one of the qualified health-care professionals shall be a person whose training and expertise aid in the assessment of functional impairment.

D. An individual shall not be determined to lack capacity solely on the basis that the individual chooses not to accept the treatment recommended by a health-care practitioner.

E. An individual, at any time, may challenge a determination that the individual lacks capacity by a signed writing or by personally informing a health-care practitioner of the challenge. A health-care practitioner who is informed by the individual of a challenge shall promptly communicate the fact of the challenge to the supervising health-care practitioner and to any health-care institution at which the individual is receiving care. Such a challenge shall prevail unless otherwise ordered by the court in a proceeding brought pursuant to the provisions of Section 24-7A-14 NMSA 1978.

F. A determination of lack of capacity under the Uniform Health-Care Decisions Act shall not be evidence of incapacity under the provisions of Article 5 of the Uniform Probate Code."

Chapter 116 Section 9 Laws 2015

SECTION 9. Section 24-8-4 NMSA 1978 (being Laws 1973, Chapter 107, Section 4) is amended to read:

"24-8-4. PROHIBITION AGAINST INTERFERENCE WITH MEDICAL JUDGMENT OF CERTAIN HEALTH CARE PROFESSIONALS.--The Family Planning Act does not prohibit or inhibit any person from refusing to provide any family planning service on the grounds that there are valid medical reasons for the refusal and that those reasons are based upon the judgment of a physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice given in the specific case of the person for whom services are refused."

Chapter 116 Section 10 Laws 2015

SECTION 10. Section 24-8-5 NMSA 1978 (being Laws 1973, Chapter 107, Section 5) is amended to read:

"24-8-5. PROHIBITION AGAINST IMPOSITION OF STANDARDS AND REQUIREMENTS AS PREREQUISITES FOR RECEIPT OF REQUESTED FAMILY PLANNING SERVICES.--Neither the state, its local governmental units nor any health facility furnishing family planning services shall subject any person to any standard or requirement as a prerequisite to the receipt of any requested family planning service except for:

A. a requirement of referral to a physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice when the requested family planning service is something other than information about family planning or nonprescription items;

B. any requirement imposed by law or regulation as a prerequisite to the receipt of a family planning service; or

C. payment for the service when payment is required in the ordinary course of providing the particular service to the person involved."

Chapter 116 Section 11 Laws 2015

SECTION 11. Section 24-10C-6 NMSA 1978 (being Laws 1999, Chapter 94, Section 6, as amended) is amended to read:

"24-10C-6. EXEMPTION.--Nothing in the Cardiac Arrest Response Act precludes a physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice from prescribing an automated external defibrillator to a patient for use by the patient's caregiver on an individual patient, and the use does not require the individual to function in an approved program."

Chapter 116 Section 12 Laws 2015

SECTION 12. Section 32A-6A-12 NMSA 1978 (being Laws 2007, Chapter 162, Section 12) is amended to read:

"32A-6A-12. PERSONAL RIGHTS OF A CHILD IN AN OUT-OF-HOME TREATMENT OR HABILITATION PROGRAM--SCOPE.--

A. A child in an out-of-home treatment or habilitation program shall have, in addition to other rights set forth in the Children's Mental Health and Developmental Disabilities Act, the right to:

(1) be placed in a manner consistent with the least restrictive means principle;

(2) have access to the state's designated protection and advocacy system and access to an attorney of the child's choice, provided that the child is not entitled to appointment of an attorney at public expense, except as otherwise provided in Subsection C of Section 32A-6A-13 NMSA 1978;

(3) receive visitors of the child's own choosing on a daily basis, subject to restrictions imposed in the best interests of the child by the child's clinician for good cause. Hours during which visitors may be received shall be limited only in the

interest of effective treatment and the reasonable efficiency of the program and shall be sufficiently flexible to accommodate the individual needs of the child and the child's visitors. Notwithstanding the provisions of this subsection, each child has the right to receive visits from the child's attorney; physician; physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice; psychologist; clergy; guardian ad litem; or representatives from the state's protection and advocacy system or children, youth and families department in private at any reasonable time, irrespective of visiting hours, provided the visitor shows reasonable cause for visiting at times other than normal visiting hours;

(4) have writing materials and postage stamps reasonably available for the child's use in writing letters and other communications. Reasonable assistance shall be provided for writing, addressing and posting letters and other documents upon request. The child has the right to send and receive sealed and uncensored mail. The child has the right to reasonable private access to telephones, and, in cases of personal emergencies when other means of communication are not satisfactory, the child shall be afforded reasonable use of long distance calls; provided that for other than mail or telephone calls to a court; an attorney; a physician; a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice; a psychologist; clergy; a guardian ad litem; a representative from the state's protection and advocacy system; or a social worker, mailing or telephone privileges may be restricted by the child's clinician for good cause shown. A child who is indigent shall be furnished writing, postage and telephone facilities without charge;

(5) reasonable access to a legal custodian and a family member through visitation, videoconferencing, telephone access and opportunity to send and receive mail. In-person visitation is preferred, and reasonable efforts shall be made to facilitate such visitation unless the child and family choose otherwise. Access by legal custodians and family members to the child shall be limited only in the interest of effective treatment and the reasonable efficiency of the program and shall be sufficiently flexible to accommodate the individual needs of legal custodians and family members. Treatment needs that justify limitation on the access rights of a legal custodian or family member must be specifically documented by the clinician in the child's record, and any such limitation automatically expires in seven days;

(6) follow or abstain from the practice of religion. The program shall provide appropriate assistance in this connection, including reasonable accommodations for religious worship and transportation to nearby religious services. A child who does not wish to participate in religious practice shall be free from pressure to do so or to accept religious beliefs;

(7) a humane psychological and physical environment. The child shall be provided a comfortable bed and adequate changes of linen and reasonable secure storage space for personal possessions. Except when curtailed for reasons of safety or therapy as documented in the child's record by the child's physician, the child

shall be afforded reasonable privacy in sleeping and personal hygiene practices;

(8) reasonable daily opportunities for physical exercise and outdoor exercise and reasonable access to recreational areas and equipment, including equipment adapted to the child's developmental and physical needs;

(9) a nourishing, well-balanced, varied and appetizing diet;

(10) prompt and adequate medical attention for a physical ailment. Each child shall receive a complete physical examination upon admission, except when documentation is provided that the child has had such examination within the six months immediately prior to the current admission. Each child shall receive a complete physical examination every twelve months thereafter;

(11) a clean, safe and comfortable environment in a structure that complies with applicable fire and safety requirements;

(12) appropriate medication and freedom from unnecessary or excessive medication. Medication shall not be used as discipline, as a substitute for programs, for the convenience of staff or in quantities that interfere with the child's treatment or habilitation program. No medication shall be administered unless by written order of a clinician licensed to prescribe medication or by an oral order noted immediately in the patient's medical record and signed by that clinician within twenty-four hours. All prescriptions for psychotropic medications must be reviewed at least every thirty days. Notation of each child's medication shall be kept in the child's medical records and shall include a notation by the clinician licensed to prescribe medication of the behavioral or symptomatic baseline data upon which the medication order was made; and

(13) a free public education. The child shall be educated in regular classes with nondisabled children whenever appropriate. In no event shall a child be allowed to remain in an out-of-home treatment or habilitation program for more than ten days without receiving educational services. If the child's placement in an out-of-home treatment or habilitation program is required by an individualized education plan that conforms to the requirements of state and federal law, the sending school is responsible for the provision of education to the child. In all other situations, the local school district in which the out-of-home treatment or habilitation program is located is responsible for the provision of educational services to the child. Nothing in this subsection shall limit a child's right to public education under state, tribal or federal law.

B. A child receiving services in an out-of-home treatment or habilitation program, including but not limited to residential treatment or habilitation programs, shall be provided notice of rights immediately upon admission to such program."

Chapter 116 Section 13 Laws 2015

SECTION 13. Section 33-2-13 NMSA 1978 (being Laws 1889, Chapter 76, Section 44, as amended) is amended to read:

"33-2-13. PHYSICIAN, PHYSICIAN ASSISTANT, ADVANCED PRACTICE REGISTERED NURSE OR CERTIFIED NURSE-MIDWIFE WORKING WITHIN THAT PERSON'S SCOPE OF PRACTICE--RULES--PRISONER'S DISABILITY--RECORDS.-- A physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice, when visiting the penitentiary of New Mexico, shall conform to its rules and regulations. The physician or the physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice shall express no opinion as to the disability of any prisoner except in records kept in the penitentiary."

Chapter 116 Section 14 Laws 2015

SECTION 14. Section 52-1-55 NMSA 1978 (being Laws 1929, Chapter 113, Section 23, as amended) is amended to read:

"52-1-55. PHYSICAL EXAMINATIONS--STATEMENTS REGARDING DEPENDENTS--PRE-EMPLOYMENT PHYSICAL CONDITION STATEMENTS.--

A. It is the duty of the worker at the time of the worker's employment or thereafter at the request of the employer to submit to examination by a physician or surgeon duly authorized to practice medicine in the state, or by a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice, who shall be paid by the employer, for the purpose of determining the worker's physical condition.

B. It is also the duty of the worker, if required, to give the names, addresses, relationship and degree of dependency of the worker's dependents, if any, or any subsequent change thereof to the employer, and when the employer or the employer's insurance carrier requires, the worker shall make a detailed verified statement relating to such dependents, matters of employment and other information incident thereto.

C. It is also the duty of the worker, if requested by the employer or the employer's insurance carrier, to make a detailed verified statement as part of an application for employment disclosing specifically any preexisting permanent physical impairment."

Chapter 116 Section 15 Laws 2015

SECTION 15. Section 66-3-16 NMSA 1978 (being Laws 1978, Chapter 35, Section 36, as amended) is amended to read:

"66-3-16. DISTINCTIVE REGISTRATION PLATES--PERSONS WITH SIGNIFICANT MOBILITY LIMITATION--PARKING PLACARD.--

A. The division shall issue distinctive registration plates for use on motor vehicles and motorcycles owned by a person with a significant mobility limitation who requests a distinctive registration plate and who proves satisfactorily to the division that the person meets the standard provided in Subsection J of this section. No fee in addition to the regular registration fee, if any, applicable to the motor vehicle or motorcycle shall be collected for issuance of distinctive registration plates pursuant to this section.

B. No person shall falsely claim to have a significant mobility limitation so as to be eligible to be issued a distinctive registration plate or a parking placard pursuant to this section when the person does not in fact have a significant mobility limitation. Upon notice and opportunity to be heard, the division may revoke and demand return of any placard when:

- (1) it was issued in error or with false information;
- (2) the person receiving the placard is no longer eligible; or
- (3) the placard is being used by ineligible persons.

C. Upon written application to the division accompanied by a medical statement by a licensed physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice attesting to the permanent significant mobility limitation, a resident of the state who has a significant mobility limitation, as provided in this section, may apply for and be issued no more than two parking placards for display upon a motor vehicle registered to the person or motor vehicle owned by another person who is transporting the person with a significant mobility limitation. The physician or the physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice shall provide the division all information and records necessary to issue a permanent parking placard. Once approved for use of a permanent parking placard, a person with a significant mobility limitation shall not be required to furnish further medical information.

D. A parking placard issued pursuant to this section shall expire four years from the date it was issued.

E. The division shall issue two-sided hanger-style parking placards with the following characteristics:

- (1) a picture of the international symbol of access;
- (2) a hologram to make duplication difficult;

(3) an imprinted expiration date; and

(4) a full-face photograph of the holder on the inside of the placard covered by a flap.

F. The division shall consult with the governor's commission on disability for continued issuance and format of the placard.

G. The division may issue an identification card containing a full-face photograph of the holder of the registration plate or parking placard and the number of the registration plate or parking placard issued to that person.

H. Upon written application to the division accompanied by a medical statement from a licensed physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice attesting to a temporary significant mobility limitation, a person may be issued a temporary placard for no more than one year. The physician or the physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice shall provide the division all information and records necessary to issue a temporary placard.

I. Registration plates or parking placards issued to a person with a significant mobility limitation by another state or foreign jurisdiction shall be honored until the motor vehicle or motorcycle is registered or the parking placard holder establishes residency in this state.

J. A "person with a significant mobility limitation" means a person who:

(1) cannot walk one hundred feet without stopping to rest;

(2) cannot walk without the use of a brace, cane or crutch or without assistance from another person, a prosthetic device, a wheelchair or other assistive device;

(3) is restricted by lung disease to such an extent that the person's forced respiratory volume, when exhaling for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty millimeters on room air at rest;

(4) uses portable oxygen;

(5) has a severe cardiac condition; or

(6) is so severely limited in the ability to walk due to an arthritic, neurologic or orthopedic condition that the person cannot ascend or descend more than ten stair steps."

Chapter 116 Section 16 Laws 2015

SECTION 16. TEMPORARY PROVISION--DIRECTING STATE AGENCIES AND POLITICAL SUBDIVISIONS TO UPDATE RULES REQUIRING AN EXAMINATION BY, OR CERTIFICATE OR STATEMENT OF, A LICENSED PHYSICIAN TO INCLUDE ADVANCED PRACTICE REGISTERED NURSE, CERTIFIED NURSE-MIDWIFE OR PHYSICIAN ASSISTANT WORKING WITHIN THAT PERSON'S SCOPE OF PRACTICE.-- By January 1, 2016, every cabinet secretary, agency head and head of a political subdivision of the state shall update rules requiring an examination by, a certificate from or a statement of a licensed physician to also accept such examination, certificate or statement from an advanced practice registered nurse, certified nurse-midwife or physician assistant working within that person's scope of practice.

Senate Bill 299, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 117

AN ACT

RELATING TO LIQUOR CONTROL; PROVIDING THAT A MUNICIPAL GOLF COURSE AND A STATE MUSEUM MAY SELL BEER, WINE AND DISTILLED SPIRITS.

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

Chapter 117 Section 1 Laws 2015

SECTION 1. Section 60-6A-10 NMSA 1978 (being Laws 1981, Chapter 39, Section 27, as amended) is amended to read:

"60-6A-10. GOVERNMENTAL LICENSE.--

A. A governmental entity may sell alcoholic beverages directly or through its lessee at a governmental facility if the governing body applies to the director for a governmental license. The governmental entity and its lessee shall be subject to all state laws and regulations governing dispensers.

B. A governmental license may be leased to a qualified lessee and may only be used by the lessee for its operation during events authorized by the governmental entity at the governmental facility designated on the governmental

license. The governmental entity and its lessee shall not sell alcoholic beverages for consumption off the licensed premises. On the licensed premises of a municipal baseball park, the sale or service of alcoholic beverages in unbroken packages is allowed. Alcoholic beverages shall not be removed from the licensed premises of a municipal baseball park. A server as defined in Section 60-6E-3 NMSA 1978 is not required to be present in a skybox to serve alcoholic beverages to the person leasing the skybox or the person's guests.

C. A governmental entity holding a governmental license shall annually and not less than sixty days prior to the date for renewal of its license submit to the director documentary proof that its lessee is fully qualified to be a lessee of a governmental license. If the director finds that the lessee is qualified to lease a governmental license, the director shall renew the license for an additional period of one year. If the director determines that the proof is inadequate, the director shall notify the governing body of the decision and shall conduct a hearing as provided by law. If the director finds that the lessee does not qualify and the governmental entity does not change its lessee, the director shall revoke the license.

D. The provisions of Section 60-6A-18 NMSA 1978 shall not apply to governmental licenses.

E. For the purposes of this section:

(1) "governmental entity" means a municipality, a county, a state fair that is held for less than ten days per year, the state fair commission, a state museum or a state university;

(2) "governmental facility" means locations on property owned or operated by a governmental entity, including county fairs; state fairs held for less than ten days per year; convention centers; airports; civic centers; food service facilities in state museums; auditoriums; all facilities on the New Mexico state fairgrounds; facilities used for athletic competitions; golf courses, including golf courses required to be used for municipal purposes notwithstanding that there may be an existing club license at the same location operated by the same club licensee; and other facilities used for cultural or artistic performances, but "governmental facility" does not include tennis facilities;

(3) "lessee" means an individual, corporation, partnership, firm or association that fulfills the requirements set forth in Subsections A through D of Section 60-6B-2 NMSA 1978;

(4) "municipal baseball park" means a governmental facility owned by a governmental entity in a class A county having a population of three hundred fifty thousand or more pursuant to the most recent federal decennial census that is the home stadium of an affiliate of a professional baseball team and that may be used throughout the year for baseball games and other events; and

(5) "skybox" means a room or area of seating of a municipal baseball park, separated from the general seating and usually located in the upper decks of the park, leased to a person for that person's exclusive use during baseball games and at any other time throughout the year.

F. The provisions of Section 60-6B-10 NMSA 1978, with respect to golf courses owned by a governmental entity and civic centers owned and operated by a governmental entity, shall not apply to governmental licenses."

Senate Bill 300, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 118

AN ACT

RELATING TO LIENS; AMENDING SECTIONS OF THE SELF-SERVICE STORAGE LIEN ACT TO PROVIDE FOR ELECTRONIC NOTIFICATIONS AND ADVERTISEMENT OF SALES; PROVIDING FOR THE SALE OF ABANDONED PERSONAL PROPERTY.

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

Chapter 118 Section 1 Laws 2015

SECTION 1. Section 48-11-2 NMSA 1978 (being Laws 1987, Chapter 314, Section 2) is amended to read:

"48-11-2. DEFINITIONS.--As used in the Self-Service Storage Lien Act:

A. "default" means the failure to perform in a timely manner any obligation or duty set forth in the Self-Service Storage Lien Act or in the rental agreement;

B. "electronic mail" means the transmission of information or a communication by the use of a computer or other electronic means sent to a person identified by a unique electronic address;

C. "last known address" means the postal address or electronic address provided to the owner by the occupant:

(1) for the purposes of the latest rental agreement; or

(2) in a written or electronic notice of a change of postal address or electronic address after the latest rental agreement;

D. "occupant" means a person or the person's sublessee, successor or assign who is entitled to the use of storage space, to the exclusion of others, at a self-service storage facility under a rental agreement;

E. "owner" means the owner or the owner's heirs, successors or assigns, the operator, the lessor or the sublessor of a self-service storage facility or the lessor's or sublessor's agent or any other person authorized by the lessor or sublessor to manage the facility or to receive rent from an occupant under a rental agreement;

F. "rental agreement" means any written agreement or lease between the owner and the occupant that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of a self-service storage facility;

G. "self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property; and

H. "verified mail" means any method of mailing that is offered by the United States postal service or private delivery service that provides evidence of mailing."

Chapter 118 Section 2 Laws 2015

SECTION 2. Section 48-11-7 NMSA 1978 (being Laws 1987, Chapter 314, Section 7) 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 which 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 web site.

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 public regulation commission 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."

SJC/Senate Bill 311, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 119

AN ACT

RELATING TO STATE AGENCIES; PROVIDING NEW SUNSET DATES FOR CERTAIN AGENCIES.

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

Chapter 119 Section 1 Laws 2015

SECTION 1. Section 9-15-51 NMSA 1978 (being Laws 2003, Chapter 166, Section 4 and Laws 2003, Chapter 170, Section 4, as amended) is amended to read:

"9-15-51. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The office of military base planning and support and the military base planning commission are terminated on July 1, 2021 pursuant to the provisions of the Sunset Act. The office and the commission shall continue to operate according to the provisions of Sections 9-15-48 through 9-15-51 NMSA 1978 until July 1, 2022. Effective July 1, 2022, Sections 9-15-48 through 9-15-51 NMSA 1978 are repealed."

Chapter 119 Section 2 Laws 2015

SECTION 2. Section 61-2-18 NMSA 1978 (being Laws 1979, Chapter 12, Section 3, as amended) is amended to read:

"61-2-18. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of optometry is terminated on July 1, 2023 pursuant to the Sunset Act. The board shall

continue to operate according to the provisions of the Optometry Act until July 1, 2024. Effective July 1, 2024, the Optometry Act is repealed."

Chapter 119 Section 3 Laws 2015

SECTION 3. Section 61-4-17 NMSA 1978 (being Laws 1979, Chapter 77, Section 2, as amended) is amended to read:

"61-4-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The chiropractic board is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Chiropractic Physician Practice Act until July 1, 2022. Effective July 1, 2022, the Chiropractic Physician Practice Act is repealed."

Chapter 119 Section 4 Laws 2015

SECTION 4. Section 61-5A-30 NMSA 1978 (being Laws 1994, Chapter 55, Section 42, as amended) is amended to read:

"61-5A-30. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico board of dental health care is terminated on July 1, 2023 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Dental Health Care Act and the Impaired Dentists and Dental Hygienists Act until July 1, 2024. Effective July 1, 2024, the Dental Health Care Act and the Impaired Dentists and Dental Hygienists Act are repealed."

Chapter 119 Section 5 Laws 2015

SECTION 5. Section 61-7A-15 NMSA 1978 (being Laws 1989, Chapter 387, Section 15, as amended) is amended to read:

"61-7A-15. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The nutrition and dietetics practice board is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Nutrition and Dietetics Practice Act until July 1, 2022. Effective July 1, 2022, the Nutrition and Dietetics Practice Act is repealed."

Chapter 119 Section 6 Laws 2015

SECTION 6. Section 61-8-17 NMSA 1978 (being Laws 1979, Chapter 385, Section 2, as amended) is amended to read:

"61-8-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of podiatry is terminated on July 1, 2023 pursuant to the Sunset Act. The board shall

continue to operate according to the provisions of the Podiatry Act until July 1, 2024. Effective July 1, 2024, the Podiatry Act is repealed."

Chapter 119 Section 7 Laws 2015

SECTION 7. Section 61-9-19 NMSA 1978 (being Laws 1978, Chapter 188, Section 2, as amended) is amended to read:

"61-9-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico state board of psychologist examiners is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Professional Psychologist Act until July 1, 2022. Effective July 1, 2022, the Professional Psychologist Act is repealed."

Chapter 119 Section 8 Laws 2015

SECTION 8. Section 61-9A-30 NMSA 1978 (being Laws 1993, Chapter 49, Section 30, as amended) is amended to read:

"61-9A-30. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The counseling and therapy practice board is terminated on July 1, 2021 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Counseling and Therapy Practice Act until July 1, 2022. Effective July 1, 2022, the Counseling and Therapy Practice Act is repealed."

Chapter 119 Section 9 Laws 2015

SECTION 9. Section 61-10-22 NMSA 1978 (being Laws 1979, Chapter 36, Section 2, as amended) is amended to read:

"61-10-22. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of osteopathic medical examiners is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 10 NMSA 1978 until July 1, 2022. Effective July 1, 2022, Chapter 61, Article 10 NMSA 1978 is repealed."

Chapter 119 Section 10 Laws 2015

SECTION 10. Section 61-11-29 NMSA 1978 (being Laws 1979, Chapter 266, Section 2, as amended) is amended to read:

"61-11-29. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of pharmacy is terminated on July 1, 2023 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Pharmacy Act until July 1, 2024. Effective July 1, 2024, the Pharmacy Act is repealed."

Chapter 119 Section 11 Laws 2015

SECTION 11. Section 61-12A-24 NMSA 1978 (being Laws 1996, Chapter 55, Section 24, as amended by Laws 2005, Chapter 199, Section 12 and by Laws 2005, Chapter 208, Section 7) is amended to read:

"61-12A-24. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of examiners for occupational therapy is terminated on July 1, 2021 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Occupational Therapy Act until July 1, 2022. Effective July 1, 2022, the Occupational Therapy Act is repealed."

Chapter 119 Section 12 Laws 2015

SECTION 12. Section 61-12B-16 NMSA 1978 (being Laws 1984, Chapter 103, Section 17, as amended) is amended to read:

"61-12B-16. TERMINATION OF BOARD--DELAYED REPEAL.--The advisory board of respiratory care practitioners is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Respiratory Care Act until July 1, 2022. Effective July 1, 2022, the Respiratory Care Act is repealed."

Chapter 119 Section 13 Laws 2015

SECTION 13. Section 61-12C-28 NMSA 1978 (being Laws 1993, Chapter 173, Section 21, as amended) is amended to read:

"61-12C-28. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The massage therapy board is terminated on July 1, 2021 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Massage Therapy Practice Act until July 1, 2022. Effective July 1, 2022, Chapter 61, Article 12C NMSA 1978 is repealed."

Chapter 119 Section 14 Laws 2015

SECTION 14. Section 61-12D-17 NMSA 1978 (being Laws 1997, Chapter 89, Section 17, as amended) is amended to read:

"61-12D-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The physical therapy board is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Physical Therapy Act until July 1, 2022. Effective July 1, 2022, the Physical Therapy Act is repealed."

Chapter 119 Section 15 Laws 2015

SECTION 15. Section 61-14B-25 NMSA 1978 (being Laws 1996, Chapter 57, Section 25, as amended) is amended to read:

"61-14B-25. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The speech-language pathology, audiology and hearing aid dispensing practices board is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act until July 1, 2022. Effective July 1, 2022, the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is repealed."

Chapter 119 Section 16 Laws 2015

SECTION 16. Section 61-14D-19 NMSA 1978 (being Laws 1993, Chapter 325, Section 19, as amended) is amended to read:

"61-14D-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The athletic trainer practice board is terminated on July 1, 2021 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Athletic Trainer Practice Act until July 1, 2022. Effective July 1, 2022, Chapter 61, Article 14D NMSA 1978 is repealed."

Chapter 119 Section 17 Laws 2015

SECTION 17. Section 61-31-25 NMSA 1978 (being Laws 1989, Chapter 51, Section 27, as amended) is amended to read:

"61-31-25. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of social work examiners is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Social Work Practice Act until July 1, 2022. Effective July 1, 2022, the Social Work Practice Act is repealed."

Senate Bill 318, aa

Approved April 19, 2015

LAWS 2015, CHAPTER 120

AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; INCLUDING CERTAIN ENTERPRISES INVOLVED IN MINING AND ENERGY PRODUCTS AS SUITABLE ENTERPRISES FOR A PROJECT; ALLOWING A COMPLAINT REGARDING THE

AUTHORIZATION TO ISSUE A BOND FOR A PROJECT TO BE FILED FOR A PROPOSED ORDINANCE TO AUTHORIZE THE BONDS; REQUIRING THE STATE BOARD OF FINANCE TO CONDUCT A HEARING AND MAKE A DETERMINATION WITHIN NINETY DAYS OF RECEIVING A REQUEST FOR DETERMINATION FROM A COUNTY AS TO WHETHER THE BOND IN CONNECTION WITH THE PROJECT FOR WHICH THE COMPLAINT IS FILED MAY BE ISSUED.

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

Chapter 120 Section 1 Laws 2015

SECTION 1. 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, 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 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; and

(b) any electric generation 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;

(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."

Chapter 120 Section 2 Laws 2015

SECTION 2. Section 4-59-15 NMSA 1978 (being Laws 1975, Chapter 286, Section 15) is amended to read:

"4-59-15. STATE BOARD OF FINANCE.--If any representative of an existing business or enterprise located within the boundaries of the county or within five miles of the proposed project alleges in a written complaint filed with the county governing body within fifteen days of the meeting at which an ordinance or resolution authorizing the issuance of bonds pursuant to the County Industrial Revenue Bond Act is adopted that the proposed project would directly and substantially compete with such an existing business or enterprise located within the boundaries of the county or within five miles of the proposed project, the bonds in connection with that project shall not be issued until the state board of finance has determined that the proposed project will not directly or substantially compete with an existing business or enterprise located within the boundaries of the county or within five miles of the proposed project. The state board of finance shall conduct a hearing and make the determination within ninety days of receiving a request for determination from the county. An existing business or enterprise for which bonds were previously issued by the county pursuant to the County Industrial Revenue Bond Act shall not be entitled to file a complaint pursuant to this section."

Chapter 120 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SFC/Senate Bill 319, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 121

AN ACT

RELATING TO HEALTH; AMENDING SECTIONS OF THE HEALTH INFORMATION SYSTEM ACT TO PROVIDE FOR THE SAFE DISCLOSURE OF CERTAIN INFORMATION RELATED TO SPECIFICALLY IDENTIFIABLE DATA SOURCES; ENACTING A NEW SECTION OF THE HEALTH INFORMATION SYSTEM ACT TO ESTABLISH A HEALTH INFORMATION SYSTEM ADVISORY COMMITTEE; PROVIDING FOR THE POSTING OF INFORMATION FOR PUBLIC ACCESS.

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

Chapter 121 Section 1 Laws 2015

SECTION 1. Section 24-14A-3 NMSA 1978 (being Laws 1989, Chapter 29, Section 3, as amended) is amended to read:

"24-14A-3. HEALTH INFORMATION SYSTEM--CREATION--DUTIES OF DEPARTMENT.--

A. The "health information system" is created for the purpose of assisting the department, legislature and other agencies and organizations in the state's efforts in collecting, analyzing and disseminating health information to assist:

(1) in the performance of health planning and policymaking functions, including identifying personnel, facility, education and other resource needs and allocating financial, personnel and other resources where appropriate;

(2) consumers in making informed decisions regarding health care;
and

(3) in administering, monitoring and evaluating a statewide health plan.

B. In carrying out its powers and duties pursuant to the Health Information System Act, the department shall not duplicate databases that exist in the public sector or databases in the private sector to which it has electronic access. Every governmental entity shall provide the department with access to its health-related data as needed by the department. The department shall collect data from data sources in the most cost-effective and efficient manner.

C. The department shall establish, operate and maintain the health information system.

D. In establishing, operating and maintaining the health information system, the department shall:

(1) obtain information on the following health factors:

(a) mortality and natality, including accidental causes of death;

(b) morbidity;

(c) health behavior;

(d) disability;

(e) health system costs, availability, utilization and revenues;

(f) environmental factors;

(g) health personnel;

(h) demographic factors;

(i) social, cultural and economic conditions affecting health, including language preference;

(j) family status;

(k) medical and practice outcomes as measured by nationally accepted standards and quality of care; and

(l) participation in clinical research trials;

(2) give the highest priority in data gathering to information needed to implement and monitor progress toward achievement of the state health policy, including determining where additional health resources such as personnel, programs and facilities are most needed, what those additional resources should be and how existing resources should be reallocated;

(3) standardize collection and specific methods of measurement across databases and use scientific sampling or complete enumeration for collecting and reporting health information;

(4) take adequate measures to provide health information system security for all health data acquired under the Health Information System Act and protect individual patient and health care practitioner confidentiality. The right to privacy for the individual shall be a major consideration in the collection and analysis of health data and shall be protected in the reporting of results;

(5) adopt and promulgate rules necessary to establish and administer the provisions of the Health Information System Act, including an appeals process for data sources and procedures to protect data source proprietary information from public disclosure;

(6) establish definitions, formats and other common information standards for core health data elements of the health information system in order to provide an integrated financial, statistical and clinical health information system, including a geographic information system, that allows data sharing and linking across databases maintained by data sources and federal, state and local public agencies;

(7) develop and maintain health and health-related data inventories and technical documentation on data holdings in the public and private sectors;

(8) collect, analyze and make available health data to support preventive health care practices and to facilitate the establishment of appropriate benchmark data to measure performance improvements over time;

(9) establish and maintain a systematic approach to the collection and storage of health data for longitudinal, demographic and policy impact studies;

(10) use expert system-based protocols to identify individual and population health risk profiles and to assist in the delivery of primary and preventive health care services;

(11) collect health data sufficient for consumers to be able to evaluate health care services, plans, providers and payers and to make informed decisions regarding quality, cost and outcome of care across the spectrum of health care services, providers and payers;

(12) collect comprehensive information on major capital expenditures for facilities, equipment by type and by data source and significant facility capacity reductions; provided that for the purposes of this paragraph and Section 24-14A-5 NMSA 1978, "major capital expenditure" means purchases of at least one million dollars (\$1,000,000) for construction or renovation of facilities and at least five hundred thousand dollars (\$500,000) for purchase or lease of equipment, and "significant facility capacity reductions" means those reductions in facility capacities as defined by the department;

(13) serve as a health information clearinghouse, including facilitating private and public collaborative, coordinated data collection and sharing and access to appropriate data and information, maintaining patient and client confidentiality in accordance with state and federal requirements;

(14) collect data in the most cost-efficient and effective method feasible and adopt rules that place a limit on the maximum amount of unreimbursed costs that a data source can incur in any year for the purposes of complying with the data requirements of the Health Information System Act; and

(15) identify disparities in health care access and quality by aggregating the information collected pursuant to Paragraph (1) of this subsection by population subgroups to include race, ethnicity, gender and age."

Chapter 121 Section 2 Laws 2015

SECTION 2. Section 24-14A-6 NMSA 1978 (being Laws 1989, Chapter 29, Section 6, as amended) is amended to read:

"24-14A-6. HEALTH INFORMATION SYSTEM--ACCESS.--

A. Access to data in the health information system shall be provided in accordance with regulations adopted by the department pursuant to the Health Information System Act.

B. A data provider may obtain data it has submitted to the system, as well as aggregate data, but, except as provided in Subsection D of this section, it shall not have access to data submitted by another provider that is limited only to that provider unless that data is aggregated data and publicly disseminated by the department. Except as provided in Subsection D of this section, in no event may a data provider obtain data regarding an individual patient except in instances where the data were originally submitted by the requesting provider. Prior to the release of any data, in any form, data sources shall be permitted the opportunity to verify the accuracy of the data pertaining to that data source. Data identified in writing as inaccurate shall be corrected prior to the data's release. Time limits shall be set for the submission and review of data by data sources, and penalties shall be established for failure to submit and review the data within the established time.

C. Any person may obtain any aggregate data publicly disseminated by the department.

D. Through a secure delivery or transmission process, the department may share record-level data with a federal agency that is authorized to collect, analyze or disseminate health information. The department shall remove identifiable individual or provider information from the record-level data prior to its disclosure to the federal agency. In providing hospital information under an agreement or arrangement with a federal agency, the department shall ensure that any identifiable hospital information disclosed is necessary for the agency's authorized use and that its disclosure meets with state and federal privacy and confidentiality laws, rules and regulations."

Chapter 121 Section 3 Laws 2015

SECTION 3. Section 24-14A-8 NMSA 1978 (being Laws 1989, Chapter 29, Section 8, as amended) is amended to read:

"24-14A-8. HEALTH INFORMATION SYSTEM--CONFIDENTIALITY.--

A. Health information collected and disseminated pursuant to the Health Information System Act is strictly confidential and shall not be a matter of public record or accessible to the public except as provided in this section and Sections 24-14A-6 and 24-14A-7 NMSA 1978. No data source shall be liable for damages to any person for having furnished the information to the department.

B. Record-level data provided to the department pursuant to Section 24-14A-6 NMSA 1978 are confidential. The agency that receives record-level data shall not disclose the data except to the extent that they are included in a compilation of aggregate data.

C. The individual forms, electronic information or other forms of data collected by and furnished for the health information system shall not be public records subject to inspection pursuant to Section 14-2-1 NMSA 1978. The department may

release or disseminate aggregate data, including those data that pertain to a specifically identified hospital or other type of health facility. These data shall be public records if the release of these data does not violate state or federal law relating to the privacy and confidentiality of individually identifiable health information."

Chapter 121 Section 4 Laws 2015

SECTION 4. A new section of the Health Information System Act is enacted to read:

"ADVISORY COMMITTEE.--The secretary of health shall appoint a health information system advisory committee to advise the department in carrying out the provisions of the Health Information System Act. The secretary shall establish the membership and duties of the committee by rule."

Chapter 121 Section 5 Laws 2015

SECTION 5. A new section of the Health Information System Act is enacted to read:

"WEB SITE--PUBLIC ACCESS--DATA.--By January 1, 2018, the department shall ensure that the public is provided with access, free of charge, to a user-friendly, searchable and easily accessible web site on which the department shall post and update on a regular basis cost, quality and such other information it publishes pursuant to the Health Information System Act. The web site shall be accessible through the sunshine portal. The department shall adopt and promulgate rules to carry out the provisions of this section."

SJC/Senate Bills 323 & 474

Approved April 9, 2015

LAWS 2015, CHAPTER 122

AN ACT

REPLACING THE TERMS "GENERAL EDUCATION DIPLOMA", "GENERAL EDUCATION DEVELOPMENT CERTIFICATE", "GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE", "CERTIFICATE OF GENERAL EQUIVALENCY", "GENERAL EQUIVALENCY DIPLOMA CERTIFICATE", "GED CERTIFICATE", "HIGH SCHOOL EQUIVALENCY DIPLOMA", "CERTIFICATE OF EQUIVALENCY" AND "GENERAL EQUIVALENCY DIPLOMA" WITH THE TERM "HIGH SCHOOL EQUIVALENCY CREDENTIAL".

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

Chapter 122 Section 1 Laws 2015

SECTION 1. Section 21-1-1 NMSA 1978 (being Laws 1912, Chapter 83, Section 2, as amended) is amended to read:

"21-1-1. STATE INSTITUTIONS--ADMISSION REQUIREMENTS TO BE ESTABLISHED BY BOARDS OF REGENTS.--

A. The respective boards of regents of New Mexico state university, New Mexico institute of mining and technology, the university of New Mexico and the New Mexico military institute at Roswell shall determine and fix the standard of requirements for admission to their respective institutions.

B. In determining the standard of requirements for admission to their respective institutions, boards of regents shall not require a student who has completed the requirements of a home-based or nonpublic school educational program and who has submitted test scores that otherwise qualify the student for admission to that institution to obtain or submit proof of having obtained a high school equivalency credential. In determining requirements for admission, boards of regents shall evaluate and treat applicants from home-based educational programs or nonpublic schools fairly and in a nondiscriminatory manner."

Chapter 122 Section 2 Laws 2015

SECTION 2. Section 21-1-1.1 NMSA 1978 (being Laws 1999, Chapter 182, Section 1) is amended to read:

"21-1-1.1. HOME SCHOOL STUDENTS--ADMISSION REQUIREMENTS--PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS.--In determining the standard of requirements for admission to any public post-secondary educational institution, the board of regents, governing board or community college board shall not require a student who has completed the requirements of a home-based or nonpublic school educational program and who has submitted test scores that otherwise qualify the student for admission to that institution to obtain or submit proof of having obtained a high school equivalency credential. In determining requirements for admission, the board of regents, governing board or community college board shall evaluate and treat applicants from home-based or nonpublic educational programs fairly and in a nondiscriminatory manner."

Chapter 122 Section 3 Laws 2015

SECTION 3. Section 21-1-1.2 NMSA 1978 (being Laws 2007, Chapter 227, Section 1, as amended) is amended to read:

"21-1-1.2. DUAL CREDIT FOR HIGH SCHOOL AND POST-SECONDARY CLASSES.--

A. As used in this section:

(1) "bureau of Indian education school" means a school located in New Mexico that is under the control of the bureau of Indian education of the United States department of the interior;

(2) "dual credit course" means a post-secondary course that may be academic or career-technical but not remedial or developmental and specified in a rule promulgated pursuant to Paragraph (1) of Subsection G of this section for which a student simultaneously earns credit toward high school graduation and a post-secondary degree or certificate;

(3) "dual credit program" means a program offered by a public post-secondary educational institution or tribal college that allows high school students to enroll in dual credit courses;

(4) "high school" means a school offering one or more of grades nine through twelve or their equivalent and that is a school district, charter school, state-supported school, bureau of Indian education school, private school or home school; and

(5) "tribal college" means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and schools.

B. To be eligible to participate in a dual credit program, the student shall be a school-age person as that term is defined in the Public School Code and:

(1) except as provided in Subsection C of this section, be enrolled in a school district, charter school or state-supported school in one-half or more of the minimum course requirements approved by the public education department for public school students or, if a student in a bureau of Indian education school, private school or home school, be receiving at least one-half of the student's instruction at the student's high school; and

(2) obtain permission from the student's school counselor, school principal or head administrator of the high school that the student primarily attends prior to enrolling in a dual credit course.

C. A student who has met the eligibility criteria provided for in Subsection B of this section in a fall or winter semester and who has not graduated or earned a high school equivalency credential may take courses for dual credit during the immediately succeeding summer semester.

D. The high school that the student primarily attends shall pay the cost of the required textbooks and other course supplies for the post-secondary course the student is enrolled in through purchase arrangements with the bookstore at the public post-secondary educational institution or tribal college or through other cost-efficient methods. The student shall return the textbooks and unused course supplies to the high school when the student completes the course or withdraws from the course.

E. A public post-secondary educational institution or tribal college that participates in a dual credit program shall waive all general fees for dual credit courses.

F. The higher education department shall revise procedures in the higher education funding formula to address enrollments in dual credit courses and to encourage institutions to waive tuition for high school students taking those courses.

G. The higher education department and the public education department shall adopt and promulgate rules to implement a dual credit program that specify:

(1) post-secondary courses that are eligible for dual credit;

(2) conditions that apply, including:

(a) the required academic standing and conduct of students enrolled in dual credit courses;

(b) the semesters in which dual credit courses may be taken;

(c) the nature of high school credit earned;

(d) any caps on the number of courses, location of courses and provision of transcripts; and

(e) an appeals process for a student who is denied permission to enroll in a dual credit course;

(3) accommodations or other arrangements applicable to special education students;

(4) the contents of the uniform master agreement that govern the roles, responsibilities and liabilities of the high school, the public post-secondary educational institution or tribal college and the student and the student's family;

(5) provisions for expanding dual credit opportunities through distance learning and other methods;

(6) the means by which school districts, charter schools and state-supported schools are required to inform students and parents about opportunities to

participate in dual credit programs during student advisement, academic support and formulation of annual next step plans, as well as other methods; and

(7) provisions for collecting and disseminating annual data, including:

- (a) the number of students taking dual credit courses;
- (b) the participating high schools, public post-secondary educational institutions and tribal colleges;
- (c) the courses taken and grades earned;
- (d) the high school graduation rates for participating school districts, charter schools and state-supported schools;
- (e) the public post-secondary educational institutions and tribal colleges that participating students ultimately attend; and
- (f) the cost of providing dual credit courses.

H. The higher education department and the public education department shall evaluate the dual credit program in terms of its accessibility to students statewide and its effect on:

- (1) student achievement in secondary education;
- (2) student enrollment and completion of higher education; and
- (3) high schools, public post-secondary educational institutions and tribal colleges.

I. The departments shall make an annual report, including recommendations, to the governor and the legislative education study committee.

J. The provisions of this section do not apply to the New Mexico military institute."

Chapter 122 Section 4 Laws 2015

SECTION 4. Section 21-1-4.6 NMSA 1978 (being Laws 2005, Chapter 348, Section 1) is amended to read:

"21-1-4.6. NONDISCRIMINATION POLICY FOR ADMISSION TO ANY PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTION--NONDISCRIMINATION IN ELIGIBILITY FOR EDUCATION BENEFITS.--

A. A public post-secondary educational institution shall not deny admission to a student on account of the student's immigration status.

B. Any tuition rate or state-funded financial aid that is granted to residents of New Mexico shall also be granted on the same terms to all persons, regardless of immigration status, who have attended a secondary educational institution in New Mexico for at least one year and who have either graduated from a New Mexico high school or received a high school equivalency credential in New Mexico."

Chapter 122 Section 5 Laws 2015

SECTION 5. Section 21-1-43 NMSA 1978 (being Laws 2009, Chapter 7, Section 1) is amended to read:

"21-1-43. FIRST YEAR OF COLLEGE OUTCOMES OF NEW MEXICO PUBLIC HIGH SCHOOL GRADUATES--ANNUAL REPORTS.--

A. Upon request from a public high school or school district superintendent in New Mexico, a public post-secondary educational institution shall provide a report of students who enroll in the institution within three years of graduating from that high school or leaving that high school without enrolling in another high school or earning a high school equivalency credential. Information in the reports may be used by the high schools and public post-secondary educational institutions to improve instruction, student preparation and advisement.

B. The higher education department, in consultation with the public education department and representatives of public high schools and public post-secondary educational institutions, shall prescribe the form of the reports. Reports shall not include any personally identifiable student information. The reports shall be designed to show advanced placement by subject, total credits earned, grade point averages, retention from fall to spring semester of the first year of college and frequency and patterns of remedial or development courses being taken.

C. The higher education department shall be provided with copies of the reports."

Chapter 122 Section 6 Laws 2015

SECTION 6. Section 21-21L-3 NMSA 1978 (being Laws 2005, Chapter 192, Section 3, as amended by Laws 2007, Chapter 70, Section 2 and by Laws 2007, Chapter 71, Section 2 and also by Laws 2007, Chapter 85, Section 2) is amended to read:

"21-21L-3. DEFINITIONS.--As used in the College Affordability Act:

A. "commission" or "department" means the higher education department;

B. "eligible student" means a New Mexico resident who is enrolled or enrolling at least half-time in a 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;

C. "scholarship" means a college affordability scholarship; and

D. "tribal college" means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and schools."

Chapter 122 Section 7 Laws 2015

SECTION 7. Section 22-1-9 NMSA 1978 (being Laws 2007, Chapter 74, Section 1) is amended to read:

"22-1-9. HIGH SCHOOL DIPLOMA--RESIDENT MILITARY DEPENDENTS.--

A. A New Mexico resident high school student who is required to move out of state because the student's parent is a member of the New Mexico national guard or a branch of the armed forces of the United States and the parent is transferred to an out-of-state location may receive a New Mexico high school diploma under the following conditions:

(1) the student was a New Mexico resident and was regularly enrolled in a New Mexico high school prior to the parent being transferred to an out-of-state location;

(2) the student's parent notified the school district of the move and that the parent and student were retaining their New Mexico residency;

(3) the student transferred to and immediately enrolled in a high school at the new location and received high school credits that meet or exceed New Mexico's requirements for graduation; and

(4) the student has not graduated from high school or received a diploma, high school equivalency credential or any other certification of high school completion or its equivalent.

B. A student who meets the conditions of Subsection A of this section may request the New Mexico school district from which the student transferred to grant a high school diploma. The student shall include with the request for a New Mexico high school diploma:

(1) certification by the parent, and the student if over the age of eighteen, that the parent and student maintained their New Mexico residency;

(2) a transcript from the high school the student attended and a description of the course units to be transferred; and

(3) any other information the school district requires to review the request.

C. The school district shall review the student's high school transcript from the school the student transferred to and determine if the courses and grades meet or exceed New Mexico's requirements for graduation. If the transcript meets New Mexico standards, the school district shall grant the student a high school diploma."

Chapter 122 Section 8 Laws 2015

SECTION 8. Section 22-1-11 NMSA 1978 (being Laws 2010, Chapter 112, Section 1) is amended to read:

"22-1-11. EDUCATIONAL DATA SYSTEM.--

A. As used in this section:

(1) "council" means the data system council;

(2) "data system" means the unified pre-kindergarten through post-graduate education accountability data system;

(3) "data system partners" means the public education department and the higher education department;

(4) "educational agencies" means other public agencies and institutions that provide educational services for resident school-age persons and children in state-funded private pre-kindergarten programs; and

(5) "pre-kindergarten through post-graduate system" means an integrated, seamless pre-kindergarten through post-graduate system of education.

B. The data system partners, in consultation with the council, shall establish a data system, the purpose of which is to:

(1) collect, integrate and report longitudinal student-level and educator data required to implement federally or state-required education performance accountability measures;

(2) conduct research and evaluation regarding federal, state and local education and training programs at all levels; and

(3) audit and ensure compliance of those programs with applicable federal or state requirements.

C. The components of the data system shall include the use of a common student identifier for the pre-kindergarten through post-graduate system and an educator identifier, both of which may include additional identifiers, with the ability to match educator data to student data and educator data to data from schools, post-secondary education programs and other educational agencies.

D. The data system partners shall convene a "data system council" made up of the following members:

- (1) the secretary of public education or the secretary's designee;
- (2) the secretary of higher education or the secretary's designee;
- (3) the secretary of children, youth and families or the secretary's designee;
- (4) the secretary of workforce solutions or the secretary's designee;
- (5) the secretary of economic development or the secretary's designee;
- (6) the secretary of information technology or the secretary's designee;
- (7) the secretary of human services or the secretary's designee;
- (8) the secretary of health or the secretary's designee;
- (9) the director of the office of education accountability or the director's designee;
- (10) the director of the public school facilities authority or the director's designee;
- (11) a representative from the office of the governor;
- (12) the presidents or their designees of one research university, one four-year comprehensive university, two branch colleges and two independent community colleges; provided that the presidents shall be selected by the data system partners in collaboration with organizations that represent the presidents of those institutions;

(13) at least six public school superintendents or their designees; provided that the appointments by the data system partners shall be made so that small, medium and large school districts are equally represented on the council at all times;

(14) at least three charter school administrators or their designees appointed by the data system partners;

(15) the director of the legislative education study committee or the director's designee; and

(16) the director of the legislative finance committee or the director's designee.

E. The council shall:

(1) meet at least four times each calendar year;

(2) create a management plan that assigns authority and responsibility for the operation of the data system among the educational agencies whose data will be included in the data system;

(3) assist the educational agencies whose data will be included in the data system in developing interagency agreements to:

(a) enable data to be shared across and between the educational agencies;

(b) define appropriate uses of data;

(c) assure researcher access to data;

(d) assure the security of the data system;

(e) ensure that the educational system agencies represented on the council, the legislative education study committee, the legislative finance committee and other users, as appropriate, have access to the data system; and

(f) ensure the privacy of any person whose personally identifiable information is contained in the data system;

(4) develop a strategic plan for the data system; and

(5) create policies that ensure users have prompt and reasonable access to reports generated from the data system, including:

(a) identification of categories of data system users based on security level;

(b) descriptions of the reports that the data system is capable of generating on demand; and

(c) definitions of the most timely process by which users may retrieve other reports without compromising the security of the data system or the privacy of any person whose personally identifiable information is contained in the data system.

F. The data system strategic plan shall include:

(1) the development of policy and practical goals, including time lines and budget goals, that are to be met through the implementation of the data system; and

(2) the training and professional development that the data system partners will provide to users who will be analyzing, accessing or entering data into the data system.

G. The confidentiality of personally identifiable student and educator data shall be safeguarded consistent with the requirements of state and federal law. To the extent permitted by the data system partners in conformance with state and federal law, public entities participating in the data system may:

(1) disclose or redisclose data for educational purposes and longitudinal comparisons, analyses or studies, including those authorized by law;

(2) enter into agreements with other organizations for research studies to improve instruction for the benefit of local educational agencies, public schools and post-secondary educational institutions, subject to safeguards to ensure that the research organization uses the student records only for the authorized study purposes; and

(3) disclose education records to a student's former secondary school or school district upon request solely for purposes of evaluation or accountability for its programs.

H. Nothing in this section precludes the data system partners, in consultation with school districts, charter schools and public post-secondary educational institutions, from collecting and distributing aggregate data about students or educators or data about an individual student or educator without personally identifiable information.

I. The data system partners, in consultation with school districts, charter schools and public post-secondary educational institutions, shall jointly adopt rules to carry out the provisions of this section, including security administration requirements and the provision of training for data entry personnel at all levels.

J. By December 31 of each year, the data system partners shall submit a data system status report to the legislature and to the governor. Prior to submission and publication of the report referred to in Subsection K of this section, the data system partners shall distribute a draft of the report to school districts, charter schools and all public post-secondary educational institutions to allow comment on the draft report.

K. The data system partners, in consultation with school districts, charter schools and public post-secondary educational institutions, shall develop and adopt the content and a format for the report, including the ability of the data system to:

(1) connect student records from pre-kindergarten through post-graduate education;

(2) connect public school educator data to student data;

(3) match individual public school students' test records from year to year to measure academic growth, including student-level college and career readiness test scores;

(4) report the number and percentage of untested public school students by school district and by school and by major ethnic group, special education status, poverty status and gender;

(5) report high school longitudinal graduation and dropout data, including information that distinguishes between dropouts or students whose whereabouts are unknown and students who have transferred to other schools, including private schools or home schools, other school districts or other states;

(6) provide post-secondary remediation data, including assessment scores on exams used to determine the need for remediation;

(7) provide post-secondary remedial course enrollment history, including the number and type of credit and noncredit remedial courses being taken;

(8) report post-secondary retention data that indicate whether students are returning the second fall term after being enrolled as full-time first-time degree-seeking students;

(9) report to New Mexico public high schools on their students who enroll in a public post-secondary educational institution within three years of graduating or leaving the high school regarding freshman-year outcomes;

(10) provide post-secondary student completion status, including information that indicates if students are making annual progress toward their degrees;

(11) include data regarding students who have earned a high school equivalency credential in reporting post-secondary outcomes;

(12) report data collected for the educator accountability reporting system;

(13) report pre-kindergarten through post-graduate student-level enrollment data, demographic information and program participation information;

(14) report pre-kindergarten through post-graduate student-level transcript information, including information on courses completed, grades earned and cumulative grade point average;

(15) connect performance with financial information;

(16) establish and maintain a state data audit system to assess the quality, validity and reliability of data; and

(17) provide any other student-level and educator data necessary to assess the performance of the pre-kindergarten through post-graduate system."

Chapter 122 Section 9 Laws 2015

SECTION 9. Section 22-2-8.8 NMSA 1978 (being Laws 1999, Chapter 193, Section 1, as amended) is amended to read:

"22-2-8.8. HIGH SCHOOL EQUIVALENCY CREDENTIAL.--The department shall issue a high school equivalency credential to any candidate who is at least sixteen years of age and who has successfully completed the high school equivalency credential tests."

Chapter 122 Section 10 Laws 2015

SECTION 10. Section 22-2C-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 20, as amended) is amended to read:

"22-2C-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM REPORTING--PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

A. The department shall:

(1) issue a state identification number for each public school student for use in the accountability data system;

(2) adopt the format for reporting individual student assessments to parents. The student assessments shall report each student's progress and academic needs as measured against state standards;

(3) adopt the format for reporting annual yearly progress of public schools, school districts, state-chartered charter schools and the department. A school district's report shall include reports of all locally chartered charter schools in the school district. If the department has adopted a state improving schools program, the annual accountability report shall include the results of that program for each public school. The annual accountability report format shall be clear, concise and understandable to parents and the general public. All annual accountability reports shall ensure that the privacy of individual students is protected;

(4) require that when public schools, school districts, state-chartered charter schools and the state disaggregate and report school data for demographic subgroups, they include data disaggregated by ethnicity, race, limited English proficiency, students with disabilities, poverty and gender; provided that ethnicity and race shall be reported using the following categories:

(a) Caucasian, non-Hispanic;

(b) Hispanic;

(c) African American;

(d) American Indian or Alaska Native;

(e) Native Hawaiian or other Pacific Islander;

(f) Asian;

(g) two or more races; and

(h) other; provided that if the sample of students in any category enumerated in Subparagraphs (a) through (g) of this paragraph is so small that a student in the sample may be personally identifiable in violation of the federal Family Educational Rights and Privacy Act of 1974, the report may combine that sample into the "other" category;

(5) report cohort graduation data annually for the state, for each school district and for each state-chartered charter school and each public high school, based on information provided by all school districts and state-chartered charter schools according to procedures established by the department; provided that the report shall include the number and percentage of students in a cohort who:

(a) have graduated by August 1 of the fourth year after entering the ninth grade;

(b) have graduated in more than four years, but by August 1 of the fifth year after entering ninth grade;

(c) have received a state certificate by exiting the school system at the end of grade twelve without having satisfied the requirements for a high school diploma as provided in Section 22-13-1.1 NMSA 1978 or completed all course requirements but have not passed the graduation assessment or portfolio of standards-based indicators pursuant to Section 22-13-1.1 NMSA 1978;

(d) have dropped out or whose status is unknown;

(e) have exited public school and indicated an intent to pursue a high school equivalency credential; or

(f) are still enrolled in public school;

(6) report annually, based on data provided by school districts and state-chartered charter schools, the number and percentage of public school students in each cohort in the state in grades nine through twelve who have advanced to the next grade or graduated on schedule, who remain enrolled but have not advanced to the next grade on schedule, who have dropped out or whose other educational outcomes are known to the department; and

(7) establish technical criteria and procedures to define which students are included or excluded from a cohort.

B. Local school boards and governing boards of charter schools may establish additional indicators through which to measure the school district's or charter school's performance in areas other than adequate yearly progress.

C. The school district's or state-chartered charter school's annual accountability report shall include a report of four- and five-year graduation rates for each public high school in the school district or state-chartered charter school. All annual accountability reports shall ensure that the privacy of individual students is protected. As part of the graduation rate data, the school district or state-chartered charter school shall include data showing the number and percentage of students in the cohort:

(1) who have received a state certificate by exiting the school system at the end of grade twelve without having satisfied the requirements for a high school diploma as provided in Section 22-13-1.1 NMSA 1978 or completed all course requirements but have not passed the graduation assessment or portfolio of standards-based indicators pursuant to Section 22-13-1.1 NMSA 1978;

(2) who have dropped out or whose status is unknown;

(3) who have exited public school and indicated an intent to pursue a high school equivalency credential;

(4) who are still enrolled; and

(5) whose other educational outcomes are known to the school district.

D. The school district's or state-chartered charter school's annual accountability report shall include the results of a survey of parents' views of the quality of their children's school. The survey shall be conducted each year in time to include the results in the annual accountability report. The survey shall compile the results of a written questionnaire that shall be sent home with the students to be given to their parents. The survey may be completed anonymously. The survey shall be no more than one page, shall be clearly and concisely written and shall include not more than twenty questions that shall be answered with options of a simple sliding scale ranging from "strongly agree" to "strongly disagree" and shall include the optional response "don't know". The survey shall also include a request for optional written comments, which may be written on the back of the questionnaire form. The questionnaire shall include questions in the following areas:

(1) parent-teacher-school relationship and communication;

(2) quality of educational and extracurricular programs;

(3) instructional practices and techniques;

(4) resources;

(5) school employees, including the school principal; and

(6) parents' views of teaching staff expectations for the students.

E. The department shall develop no more than ten of the survey questions, which shall be reviewed by the legislative education study committee prior to implementation. No more than five survey questions shall be developed by the local school board or governing body of a state-chartered charter school, and no more than five survey questions shall be developed by the staff of each public school; provided that at least one-half of those questions shall be developed by teachers rather than school administrators, in order to gather information that is specific to the particular community surveyed. The questionnaires shall indicate the public school site and shall be tabulated by the department within thirty days of receipt and shall be returned to the respective schools to be disseminated to all parents.

F. The school district's or state-chartered charter school's annual accountability report shall be adopted by the local school board or governing body of the state-chartered charter school, shall be published no later than November 15 of each year and shall be published at least once each school year in a newspaper of general circulation in the county where the school district or state-chartered charter school is located. In publication, the report shall be titled "The School District Report Card" or "The Charter School Report Card" and disseminated in accordance with guidelines established by the department to ensure effective communication with parents, students, educators, local policymakers and business and community organizations.

G. The annual accountability report shall include the names of those members of the local school board or the governing body of the charter school who failed to attend annual mandatory training.

H. The annual accountability report shall include data on expenditures for central office administration and expenditures for the public schools of the school district or charter school.

I. The department shall create an accountability data system through which data from each public school and each school district or state-chartered charter school may be compiled and reviewed. The department shall provide the resources to train school district and charter school personnel in the use of the accountability data system.

J. The department shall verify data submitted by the school districts and state-chartered charter schools.

K. At the end of fiscal year 2005, after the budget approval cycle, the department shall produce a report to the legislature that shows for all school districts using performance-based program budgeting the relationship between that portion of a school district's program cost generated by each public school in the school district and the budgeted expenditures for each public school in the school district as reported in the district's performance-based program budget. At the end of fiscal year 2006 and subsequent fiscal years, after the budget approval cycle, the department shall report on this relationship in all public schools in all school districts in the state.

L. When all public schools are participating in performance-based budgeting, the department shall recommend annually to the legislature for inclusion in the general appropriation act the maximum percentage of appropriations that may be expended in each school district for central office administration.

M. The department shall disseminate its statewide accountability report to school districts and charter schools; the governor, legislators and other policymakers; and business and economic development organizations.

N. As used in this section, "cohort" means a group of students who enter grade nine for the first time at the same time, plus those students who transfer into the group in later years and minus those students who leave the cohort for documented excusable reasons."

Chapter 122 Section 11 Laws 2015

SECTION 11. Section 22-5-4.9 NMSA 1978 (being Laws 2003, Chapter 113, Section 1) is amended to read:

"22-5-4.9. HIGH SCHOOL DIPLOMAS--WORLD WAR II VETERANS.--

A. Notwithstanding any other provision of the Public School Code, a local school board may issue a high school diploma to a World War II veteran who:

(1) is an honorably discharged member of the armed forces of the United States;

(2) was scheduled to graduate from high school after 1940 and before 1951;

(3) was a resident of New Mexico and attended a high school in the locality of the current school district; and

(4) left high school before graduation to serve in World War II.

B. A local school board may issue a high school diploma to a qualifying World War II veteran regardless of whether the veteran holds a high school equivalency credential or is deceased.

C. The department shall adopt and promulgate rules to carry out the provisions of this section, including:

(1) an application form to be submitted by the World War II veteran or a person acting on behalf of the veteran if the veteran is incapacitated or deceased; and

(2) what constitutes acceptable evidence of eligibility for a diploma."

Chapter 122 Section 12 Laws 2015

SECTION 12. Section 22-5-4.10 NMSA 1978 (being Laws 2005, Chapter 11, Section 1) is amended to read:

"22-5-4.10. HIGH SCHOOL DIPLOMAS--KOREAN CONFLICT VETERANS.--

A. Notwithstanding any other provision of the Public School Code, a local school board may issue a high school diploma to a Korean conflict veteran who:

(1) is an honorably discharged member of the armed forces of the United States;

(2) was scheduled to graduate from high school after June 27, 1950 and before January 31, 1955;

(3) was a resident of New Mexico and attended a high school in the locality of the current school district; and

(4) left high school before graduation to serve in the Korean conflict.

B. A local school board may issue a high school diploma to a qualifying Korean conflict veteran regardless of whether the veteran holds a high school equivalency credential or is deceased.

C. The department shall adopt and promulgate rules to carry out the provisions of this section, including:

(1) an application form to be submitted to the local school board by the Korean conflict veteran or a person acting on behalf of the veteran if the veteran is incapacitated or deceased; and

(2) what constitutes acceptable evidence of eligibility for a diploma."

Chapter 122 Section 13 Laws 2015

SECTION 13. Section 22-12-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 170, as amended by Laws 2007, Chapter 307, Section 6 and by Laws 2007, Chapter 308, Section 6) is amended to read:

"22-12-2. COMPULSORY SCHOOL ATTENDANCE--RESPONSIBILITY.--

A. Except as otherwise provided, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a high school equivalency credential. A parent may give written, signed permission for the school-age person to leave school in case of hardship approved by the local superintendent.

B. A school-age person subject to the provisions of the Compulsory School Attendance Law shall attend school for at least the length of time of the school year that is established in the school district in which the person is a resident or the

state-chartered charter school in which the person is enrolled and the school district or state-chartered charter school shall not excuse a student from attending school except as provided in that law or for parent-authorized medical reasons.

C. Any parent of a school-age person subject to the provisions of the Compulsory School Attendance Law is responsible for the school attendance of that person.

D. Each local school board and each governing body of a charter school or private school shall enforce the provisions of the Compulsory School Attendance Law for students enrolled in their respective schools."

Chapter 122 Section 14 Laws 2015

SECTION 14. Section 27-2B-5 NMSA 1978 (being Laws 1998, Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5, as amended by Laws 2007, Chapter 46, Section 18 and by Laws 2007, Chapter 350, Section 3) is amended to read:

"27-2B-5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

A. The following qualify as work activities:

- (1) unsubsidized employment, including self-employment;
- (2) subsidized private sector employment, including self-employment;
- (3) subsidized public sector employment;
- (4) work experience;
- (5) on-the-job training;
- (6) job search and job readiness;
- (7) community service programs;
- (8) vocational education;
- (9) job skills training activities directly related to employment;
- (10) education directly related to employment;
- (11) satisfactory attendance at a secondary school or course of study leading to a high school equivalency credential in the case of a participant who has not completed secondary school or received such a certificate; and

(12) the provision of child care services to a participant who is participating in a community service program.

B. The department shall recognize community service programs and job training programs that are operated by an Indian nation, tribe or pueblo.

C. The department may not require a participant to work more than four hours per week over the work requirement rate set pursuant to the federal act.

D. The department shall require a parent, caretaker or other adult who is a member of a benefit group to engage in a work activity.

E. Where best suited for the participant to address barriers, the department may require the following work activities:

(1) participating in parenting classes, money management classes or life skills training;

(2) participating in a certified alcohol or drug addiction program;

(3) in the case of a homeless benefit group, finding a home;

(4) in the case of a participant who is a victim of domestic violence residing in a domestic violence shelter or receiving counseling or treatment or participating in criminal justice activities directed at prosecuting the domestic violence perpetrator for no longer than twenty-four weeks; and

(5) in the case of a participant who does not speak English, participating in a course in English as a second language.

F. Subject to the availability of funds, the department in cooperation with the workforce solutions department, Indian affairs department and other appropriate state agencies may develop projects to provide for the placement of participants in work activities, including the following:

(1) participating in unpaid internships with private and government entities;

(2) refurbishing publicly assisted housing;

(3) volunteering at a head start program or a school;

(4) weatherizing low-income housing; and

(5) restoring public sites and buildings, including monuments, parks, fire stations, police buildings, jails, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices and city halls.

G. If a participant is engaged in full-time vocational education studies or an activity set out in Paragraphs (9) through (11) of Subsection A of this section, the participant shall engage in another work activity at the same time. Additionally, for two-parent families that receive federally funded child-care assistance, the participant's spouse shall engage in a work activity set out in Paragraphs (1) through (5) or (7) of Subsection A of this section unless the participant suffers from a temporary or complete disability that bars the participant from engaging in a work activity or the participant is barred from engaging in a work activity because the participant provides sole care for a person with a disability.

H. A participant engaged in vocational education studies shall make reasonable efforts to obtain a loan, scholarship, grant or other assistance to pay for costs and tuition, and the department shall disregard those amounts in the eligibility determination.

I. For as long as the described conditions exist, the following are exempt from the work requirement:

(1) a participant barred from engaging in a work activity because the participant has a temporary or permanent disability;

(2) a participant over age sixty;

(3) a participant barred from engaging in a work activity because the participant provides the sole care for a person with a disability;

(4) a single custodial parent caring for a child less than twelve months old for a lifetime total of twelve months;

(5) a single custodial parent caring for a child under six years of age if the parent is unable to obtain child care for one or more of the following reasons:

(a) unavailability of appropriate child care within a reasonable distance from the parent's home or work as defined by the children, youth and families department;

(b) unavailability or unsuitability of informal child care by a relative under other arrangements as defined by the children, youth and families department; or

(c) unavailability of appropriate and affordable formal child-care arrangements as defined by the children, youth and families department;

(6) a pregnant woman during her last trimester of pregnancy;

(7) a participant prevented from working by a temporary emergency or a situation that precludes work participation for thirty days or less;

(8) a participant who demonstrates by reliable medical, psychological or mental reports, court orders or police reports that family violence or threat of family violence effectively bars the participant from employment; and

(9) a participant who demonstrates good cause of the need for the exemption.

J. As a condition of the exemptions identified in Subsection I of this section, the department may establish participation requirements specific to the participant's condition or circumstances, such as substance abuse services, mental health services, domestic violence services, pursuit of disability benefits, job readiness or education directly related to employment. The activities are established to improve the participant's capacity to improve income and strengthen family support."

Chapter 122 Section 15 Laws 2015

SECTION 15. Section 29-7C-3 NMSA 1978 (being Laws 2003, Chapter 320, Section 5) is amended to read:

"29-7C-3. QUALIFICATIONS FOR CERTIFICATION.--An applicant for certification shall provide evidence satisfactory to the board that the applicant:

A. is a citizen or legal resident of the United States and has reached the age of majority;

B. holds a high school diploma or high school equivalency credential from an accredited institution;

C. has not been convicted of, pled guilty to or entered a plea of nolo contendere to a:

(1) felony charge; or

(2) violation of a federal or state law, a local ordinance relating to aggravated assault or theft or a law involving moral turpitude within the three-year period immediately preceding the application;

D. has not received a dishonorable discharge from the armed forces of the United States;

E. is free from a physical, emotional or mental condition that might adversely affect the applicant's performance;

F. is of good moral character;

G. has met all other requirements for certification prescribed by the board;
and

H. has received a certificate attesting to the applicant's completion of an approved basic telecommunicator training program from the director."

Chapter 122 Section 16 Laws 2015

SECTION 16. Section 31-18-22 NMSA 1978 (being Laws 1990, Chapter 51, Section 1) is amended to read:

"31-18-22. SPECIAL INCARCERATION ALTERNATIVE PROGRAM.--

A. The corrections department shall develop and implement a special incarceration alternative program for certain adult male and adult female felony offenders pursuant to this section. The program shall provide substance abuse counseling and treatment, high school equivalency credential preparatory courses, manual labor assignments, physical training and drills, training in decision-making and personal development and pre-release skills training. The programs shall be conducted in a strict disciplinary environment. Emphasis shall be given to rehabilitation of alcohol and substance abusers. The corrections department shall require that program participants complete a structured, ninety-day program.

B. Participation in the program shall be limited to those offenders sentenced on or after July 1, 1990. Offenders ineligible to participate in the program are offenders:

(1) sentenced to death;

(2) who have received a life sentence;

(3) with a record of prior confinement for a felony conviction;

(4) convicted of murder in the first or second degree, child abuse resulting in death or great bodily harm, criminal sexual penetration in the first or second degree or criminal sexual contact with a minor;

(5) convicted of an offense carrying a mandatory sentence that cannot be suspended or deferred;

(6) who have participated in a special incarceration alternative program in the past;

(7) who are more than thirty years of age at time of sentencing; or

(8) who do not volunteer to participate in the program and who do not agree to the special conditions of probation for successful program participants.

C. The corrections department shall develop and adopt regulations to provide for the screening of all convicted felons sentenced to the custody of the corrections department. The regulations shall provide that the screening occurs within thirty days of sentencing. Persons deemed suitable under the regulations adopted pursuant to this subsection shall not be denied eligibility for participation in the program solely due to physical disability.

D. If the sentencing court accepts the recommendation of the corrections department that the offender is suitable for participation in a special incarceration alternative program, the court shall resentence the offender to provide that, in the event the offender successfully completes the program, the remainder of the sentence shall be suspended and the offender shall be placed on probation for the remainder of the term. The sentencing court shall be notified in writing by the corrections department of the offender's successful completion of the special incarceration alternative program.

E. The corrections department may contract for the design, construction and lease of a facility to house a special incarceration alternative program with public or private agencies, entities or persons capable of providing financing or construction of such a facility. The facility shall be operated by the corrections department.

F. Appropriate post-institutional treatment shall be made available by the corrections department to the offender."

Chapter 122 Section 17 Laws 2015

SECTION 17. Section 33-2-34 NMSA 1978 (being Laws 1999, Chapter 238, Section 1, as amended) is amended to read:

"33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS DEDUCTIONS.--

A. To earn meritorious deductions, a prisoner confined in a correctional facility designated by the corrections department must be an active participant in programs recommended for the prisoner by the classification supervisor and approved by the warden or the warden's designee. Meritorious deductions shall not exceed the following amounts:

(1) for a prisoner confined for committing a serious violent offense, up to a maximum of four days per month of time served;

(2) for a prisoner confined for committing a nonviolent offense, up to a maximum of thirty days per month of time served;

(3) for a prisoner confined following revocation of parole for the alleged commission of a new felony offense or for absconding from parole, up to a maximum of four days per month of time served during the parole term following revocation; and

(4) for a prisoner confined following revocation of parole for a reason other than the alleged commission of a new felony offense or absconding from parole:

(a) up to a maximum of eight days per month of time served during the parole term following revocation, if the prisoner was convicted of a serious violent offense or failed to pass a drug test administered as a condition of parole; or

(b) up to a maximum of thirty days per month of time served during the parole term following revocation, if the prisoner was convicted of a nonviolent offense.

B. A prisoner may earn meritorious deductions upon recommendation by the classification supervisor, based upon the prisoner's active participation in approved programs and the quality of the prisoner's participation in those approved programs. A prisoner may not earn meritorious deductions unless the recommendation of the classification supervisor is approved by the warden or the warden's designee.

C. If a prisoner's active participation in approved programs is interrupted by a lockdown at a correctional facility, the prisoner may continue to be awarded meritorious deductions at the rate the prisoner was earning meritorious deductions prior to the lockdown, unless the warden or the warden's designee determines that the prisoner's conduct contributed to the initiation or continuance of the lockdown.

D. A prisoner confined in a correctional facility designated by the corrections department is eligible for lump-sum meritorious deductions as follows:

(1) for successfully completing an approved vocational, substance abuse or mental health program, one month; except when the prisoner has a demonstrable physical, mental health or developmental disability that prevents the prisoner from successfully earning a high school equivalency credential, in which case, the prisoner shall be awarded three months;

(2) for earning a high school equivalency credential, three months;

(3) for earning an associate's degree, four months;

(4) for earning a bachelor's degree, five months;

(5) for earning a graduate qualification, five months; and

(6) for engaging in a heroic act of saving life or property, engaging in extraordinary conduct for the benefit of the state or the public that is at great expense or risk to or involves great effort on the part of the prisoner or engaging in extraordinary conduct far in excess of normal program assignments that demonstrates the prisoner's commitment to self-rehabilitation. The classification supervisor and the warden or the warden's designee may recommend the number of days to be awarded in each case based upon the particular merits, but any award shall be determined by the director of the adult institutions division of the corrections department or the director's designee.

E. Lump-sum meritorious deductions, provided in Paragraphs (1) through (6) of Subsection D of this section, may be awarded in addition to the meritorious deductions provided in Subsections A and B of this section. Lump-sum meritorious deductions shall not exceed one year per award and shall not exceed a total of one year for all lump-sum meritorious deductions awarded in any consecutive twelve-month period.

F. A prisoner is not eligible to earn meritorious deductions if the prisoner:

(1) disobeys an order to perform labor, pursuant to Section 33-8-4 NMSA 1978;

(2) is in disciplinary segregation;

(3) is confined for committing a serious violent offense and is within the first sixty days of receipt by the corrections department; or

(4) is not an active participant in programs recommended and approved for the prisoner by the classification supervisor.

G. The provisions of this section shall not be interpreted as providing eligibility to earn meritorious deductions from a sentence of life imprisonment or a sentence of life imprisonment without possibility of release or parole.

H. The corrections department shall promulgate rules to implement the provisions of this section, and the rules shall be matters of public record. A concise summary of the rules shall be provided to each prisoner, and each prisoner shall receive a quarterly statement of the meritorious deductions earned.

I. A New Mexico prisoner confined in a federal or out-of-state correctional facility is eligible to earn meritorious deductions for active participation in programs on the basis of the prisoner's conduct and program reports furnished by that facility to the corrections department. All decisions regarding the award and forfeiture of meritorious deductions at such facility are subject to final approval by the director of the adult institutions division of the corrections department or the director's designee.

J. In order to be eligible for meritorious deductions, a prisoner confined in a federal or out-of-state correctional facility designated by the corrections department must actively participate in programs that are available. If a federal or out-of-state correctional facility does not have programs available for a prisoner, the prisoner may be awarded meritorious deductions at the rate the prisoner could have earned meritorious deductions if the prisoner had actively participated in programs.

K. A prisoner confined in a correctional facility in New Mexico that is operated by a private company, pursuant to a contract with the corrections department, is eligible to earn meritorious deductions in the same manner as a prisoner confined in a state-run correctional facility. All decisions regarding the award or forfeiture of meritorious deductions at such facilities are subject to final approval by the director of the adult institutions division of the corrections department or the director's designee.

L. As used in this section:

(1) "active participant" means a prisoner who has begun, and is regularly engaged in, approved programs;

(2) "program" means work, vocational, educational, substance abuse and mental health programs, approved by the classification supervisor, that contribute to a prisoner's self-betterment through the development of personal and occupational skills. "Program" does not include recreational activities;

(3) "nonviolent offense" means any offense other than a serious violent offense; and

(4) "serious violent offense" means:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

(b) voluntary manslaughter, as provided in Section 30-2-3 NMSA 1978;

(c) third degree aggravated battery, as provided in Section 30-3-5 NMSA 1978;

(d) third degree aggravated battery against a household member, as provided in Section 30-3-16 NMSA 1978;

(e) first degree kidnapping, as provided in Section 30-4-1 NMSA 1978;

(f) first and second degree criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

(g) second and third degree criminal sexual contact of a minor, as provided in Section 30-9-13 NMSA 1978;

(h) first and second degree robbery, as provided in Section 30-16-2 NMSA 1978;

(i) second degree aggravated arson, as provided in Section 30-17-6 NMSA 1978;

(j) shooting at a dwelling or occupied building, as provided in Section 30-3-8 NMSA 1978;

(k) shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;

(l) aggravated battery upon a peace officer, as provided in Section 30-22-25 NMSA 1978;

(m) assault with intent to commit a violent felony upon a peace officer, as provided in Section 30-22-23 NMSA 1978;

(n) aggravated assault upon a peace officer, as provided in Section 30-22-22 NMSA 1978; or

(o) any of the following offenses, when the nature of the offense and the resulting harm are such that the court judges the crime to be a serious violent offense for the purpose of this section: 1) involuntary manslaughter, as provided in Section 30-2-3 NMSA 1978; 2) fourth degree aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3) third degree assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978; 4) fourth degree aggravated assault against a household member, as provided in Section 30-3-13 NMSA 1978; 5) third degree assault against a household member with intent to commit a violent felony, as provided in Section 30-3-14 NMSA 1978; 6) third and fourth degree aggravated stalking, as provided in Section 30-3A-3.1 NMSA 1978; 7) second degree kidnapping, as provided in Section 30-4-1 NMSA 1978; 8) second degree abandonment of a child, as provided in Section 30-6-1 NMSA 1978; 9) first, second and third degree abuse of a child, as provided in Section 30-6-1 NMSA 1978; 10) third degree dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978; 11) third and fourth degree criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; 12) fourth degree criminal sexual contact of a minor, as provided in Section 30-9-13 NMSA 1978; 13) third degree robbery, as provided in Section 30-16-2 NMSA 1978; 14) third degree homicide by vehicle or great bodily harm by vehicle, as provided in Section 66-8-101 NMSA 1978; or 15) battery upon a peace officer, as provided in Section 30-22-24 NMSA 1978.

M. Except for sex offenders, as provided in Section 31-21-10.1 NMSA 1978, an offender sentenced to confinement in a correctional facility designated by the corrections department who has been released from confinement and who is serving a parole term may be awarded earned meritorious deductions of up to thirty days per month upon recommendation of the parole officer supervising the offender, with the final approval of the adult parole board. The offender must be in compliance with all the conditions of the offender's parole to be eligible for earned meritorious deductions. The adult parole board may remove earned meritorious deductions previously awarded if the offender later fails to comply with the conditions of the offender's parole. The corrections department and the adult parole board shall promulgate rules to implement the provisions of this subsection. This subsection applies to offenders who are serving a parole term on or after July 1, 2004."

Chapter 122 Section 18 Laws 2015

SECTION 18. Section 33-11-3 NMSA 1978 (being Laws 1988, Chapter 78, Section 3) is amended to read:

"33-11-3. REGULATIONS.--

A. The corrections department, by July 1, 1988, shall adopt regulations for all adult correctional institutions operated by the department for the implementation of a mandatory education program for all inmates to attain a minimum education standard as set forth in this section.

B. The regulations shall apply only to any inmate who:

(1) commits a crime after the effective date of the Inmate Literacy Act; and

(2) has eighteen months or more remaining to be served on the inmate's sentence of incarceration; and who:

(a) is not exempted due to a medical, developmental or learning disability; or

(b) does not possess a high school equivalency credential or a high school diploma.

C. The regulations adopted shall require that:

(1) a minimum education standard shall be met beginning in 1988 and in all subsequent years as follows:

(a) in 1988, the education standard shall be the equivalent of grade six in reading and math on the test of adult basic education;

(b) in 1989, the education standard shall be the equivalent of grade seven in reading and math on the test of adult basic education;

(c) in 1990, the education standard shall be the equivalent of grade eight in reading and math on the test of adult basic education; and

(d) in 1991, the education standard shall be a high school diploma or a high school equivalency credential;

(2) inmates who meet the criteria in Subsection B of this section shall be required to participate in education programs for ninety days. After ninety days, inmates may choose to withdraw from educational programs but will be subject to the provisions of Paragraph (3) of this subsection; and

(3) notwithstanding any other provision of law, inmates who are subject to these regulations but who refuse or choose not to participate shall not be eligible for monetary compensation for work performed or for meritorious deduction as set forth in Subsection D of Section 33-2-34 NMSA 1978.

D. The regulations may:

(1) exclude any inmate who has been incarcerated for less than ninety days in an institution controlled by the corrections department;

(2) exclude any inmate who is assigned a minimum custody classification; or

(3) defer educational requirements for inmates with sentences longer than ten years."

Chapter 122 Section 19 Laws 2015

SECTION 19. Section 35-2-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 41, as amended) is amended to read:

"35-2-1. QUALIFICATION--PERSONAL QUALIFICATIONS.--

A. Each magistrate shall be a qualified elector of, and reside in, the magistrate district for which the magistrate is elected or appointed.

B. No person is eligible for election or appointment to the office of magistrate unless the person has graduated from high school or has attained the equivalent of a high school education as indicated by possession of a high school equivalency credential issued by the public education department based upon the record made on the high school equivalency credential test.

C. In magistrate districts with a population of more than two hundred thousand persons in the last federal decennial census, no person is eligible for election to the office of magistrate unless the person:

(1) is a member of the bar of this state and licensed to practice law in this state; or

(2) holds the office of magistrate in that district when the federal decennial census is published, as long as there is no break in service.

D. In magistrate districts with a population of more than two hundred thousand persons in the last federal decennial census, no person is eligible for appointment to the office of magistrate unless the person is a member of the bar of this state and licensed to practice law in this state.

E. A person holding the office of magistrate shall not engage in the private practice of law during tenure in office."

Chapter 122 Section 20 Laws 2015

SECTION 20. Section 52-1-26.3 NMSA 1978 (being Laws 1990 (2nd S.S.), Chapter 2, Section 14, as amended) is amended to read:

"52-1-26.3. PARTIAL DISABILITY DETERMINATION--EDUCATION MODIFICATION.--

A. The range of the education modification is one to eight. The modification shall be based upon the worker's formal education, skills and training at the time of the disability rating.

B. A worker shall be awarded points based on the formal education that the worker has received. A worker who:

(1) has completed no higher than the fifth grade shall be awarded three points;

(2) has completed the sixth grade but has completed no higher than the eleventh grade shall be awarded two points;

(3) has completed the twelfth grade or has obtained a high school equivalency credential but has not completed a college degree shall be awarded one point; and

(4) has completed a college degree or more shall receive zero points.

C. A worker shall be awarded points based upon the worker's skills. Skills shall be measured by reviewing the jobs that the worker has successfully performed during the ten years preceding the date of disability determination. For the purposes of this section, "successfully performed" means having remained on the job the length of time necessary to meet the specific vocational preparation (SVP) time requirement for that job as established in the dictionary of occupational titles published by the United States department of labor. The appropriate award of points shall be based upon the highest SVP level demonstrated by the worker in the performance of the jobs that the worker has successfully performed in the ten-year period preceding the date of disability determination, as follows:

(1) a worker with an SVP of one to two shall be awarded four points;

(2) a worker with an SVP of three to four shall be awarded three points;

(3) a worker with an SVP of five to six shall be awarded two points; and

(4) a worker with an SVP of seven to nine shall be awarded one point.

D. A worker shall be awarded points based upon the training that the worker has received. A worker who cannot competently perform a specific vocational pursuit shall be awarded one point. A worker who can perform a specific vocational pursuit shall not receive any points.

E. The sum of the points awarded the worker in Subsections B, C and D of this section shall constitute the education modification."

Chapter 122 Section 21 Laws 2015

SECTION 21. Section 58-28-5 NMSA 1978 (being Laws 1997, Chapter 118, Section 5, as amended) is amended to read:

"58-28-5. USE OF MONEY--ELIGIBLE ACTIVITIES.--

A. Money from the fund and other sources may be used to finance in whole or in part any loans or grant projects that will provide housing for low-income persons and for other uses specified in this section. Money deposited into the fund may be used annually as follows:

(1) no more than five percent of the fund shall be used for expenses of administering the fund;

(2) no less than twenty percent of the fund shall be invested in a permanent capital fund, the interest on which may be used for purposes specified in this section;

(3) no less than fifty percent of the fund shall be allocated to eligible organizations to make housing more accessible to low-income persons;

(4) no more than ten percent of the fund may be allocated for use to provide scholarships for New Mexico high school graduates and high school equivalency credential recipients at New Mexico public post-secondary educational institutions under a program approved by the trustee under the administration of a nonprofit statewide land title association; and

(5) the remaining balance may be allocated to eligible organizations for other housing-related programs for the benefit of the public as specifically approved by the trustee from time to time.

B. Money in the capital fund authorized in Paragraph (2) of Subsection A of this section may be invested in fully amortizing interest-bearing mortgages secured by real property in New Mexico, the interest on which may be used for purposes specified in this section."

Chapter 122 Section 22 Laws 2015

SECTION 22. Section 58-30-8 NMSA 1978 (being Laws 2003, Chapter 362, Section 8, as amended) is amended to read:

"58-30-8. ALLOWABLE USES--WITHDRAWALS FROM INDIVIDUAL DEVELOPMENT ACCOUNTS--FORFEITURE OF MATCHING FUNDS FROM RESERVE ACCOUNT--LOSS OF ELIGIBLE INDIVIDUAL STATUS.--

A. Allowable uses of the money withdrawn from an individual development account are limited to the following:

(1) expenses to attend an approved post-secondary or vocational educational institution, including payment for tuition, books, supplies and equipment required for courses;

(2) costs to acquire or construct a principal residence as defined in rules adopted pursuant to the Individual Development Account Act that is the first principal residence acquired or constructed by the account owner;

(3) costs of major home improvements or repairs on the home of the account owner;

(4) capitalization or costs to start or expand a business, including capital, plant, equipment, operational and inventory expenses, attorney and accountant fees and other costs normally associated with starting or expanding a business;

(5) acquisition of a vehicle necessary to obtain or maintain employment by an account owner or the spouse of an account owner; and

(6) in the case of a deceased account owner, amounts deposited by the account owner and held in an individual development account shall be distributed directly to the account owner's spouse, or if the spouse is deceased or there is no spouse, to a dependent or other named beneficiary of the deceased or if the recipient is eligible to maintain the account, the account and matching funds designated for that account from a reserve account may be transferred and maintained in the name of the surviving spouse, dependent or beneficiary.

B. Unless otherwise approved by the program administrator pursuant to the provisions of Subsection D of this section, account owners qualifying as eligible individuals pursuant to the provisions of Subsection B or C of Section 58-30-4 NMSA 1978 shall not be permitted to withdraw money from an individual development account until such time as the account owners have completed a high school curriculum at a public or accredited private New Mexico high school or received a high school equivalency credential.

C. Except as provided in Subsection D of this section, if an account owner withdraws money from an individual development account for a use other than an allowable use, the account owner forfeits a proportionate amount of matching funds from the reserve account, as set forth in the agreement between the program administrator and the account owner.

D. The program administrator may approve a withdrawal by an account owner from an individual development account to be used for a purpose other than an allowable use only for serious emergencies as specified in the rules adopted by the office. For such an approved withdrawal, the proportionate matching funds in the reserve account shall remain in the reserve account for twelve months following the withdrawal and, if an amount equal to the withdrawn money is redeposited in the individual development account within the twelve months, the matching funds shall again be available to match withdrawals for allowable uses.

E. At the request of the account owner and with the written approval of the program administrator, amounts may be withdrawn from the account owner's individual development account and deposited in another individual development account established for an eligible individual who is the account owner's spouse or dependent."

Chapter 122 Section 23 Laws 2015

SECTION 23. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 357

Approved April 9, 2015

LAWS 2015, CHAPTER 123

AN ACT

RELATING TO MILITARY BASE PLANNING AND SUPPORT; REVISING THE APPOINTMENT AUTHORITY AND MAKEUP OF THE OFFICE OF MILITARY BASE PLANNING AND SUPPORT AND THE MILITARY BASE PLANNING COMMISSION; REPEALING SECTION 9-15-51 NMSA 1978 (BEING LAWS 2003, CHAPTER 166, SECTION 4, AS AMENDED).

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

Chapter 123 Section 1 Laws 2015

SECTION 1. Section 9-15-48 NMSA 1978 (being Laws 2003, Chapter 166, Section 1 and Laws 2003, Chapter 170, Section 1, as amended) is amended to read:

"9-15-48. OFFICE OF MILITARY BASE PLANNING AND SUPPORT CREATED--
-DUTIES.--

A. The "office of military base planning and support" is created, which is administratively attached to the economic development department. The department shall provide administrative services to the office.

B. The governor shall appoint a director of the office of military base planning and support.

C. The director of the office of military base planning and support shall:

(1) employ, under the authorization of the governor's chief of staff, the staff necessary to carry out the work of the office of military base planning and support and the military base planning commission;

(2) support the commission;

(3) inform the governor and the governor's chief of staff about issues impacting the military bases in the state, including infrastructure requirements,

environmental needs, military force structure possibilities, tax implications, property considerations and issues requiring coordination and support from other state agencies;

(4) serve as a liaison with the community organizations whose purpose is to support the long-term viability of the military bases;

(5) communicate with the staff of the state's congressional delegation; and

(6) identify issues, prepare information and provide for presentations necessary for the commission to carry out its duties."

Chapter 123 Section 2 Laws 2015

SECTION 2. Section 9-15-49 NMSA 1978 (being Laws 2003, Chapter 166, Section 2 and Laws 2003, Chapter 170, Section 2, as amended) is amended to read:

"9-15-49. MILITARY BASE PLANNING COMMISSION CREATED--
COMPOSITION.--

A. The "military base planning commission" is created, which is administratively attached to the economic development department. The department shall provide administrative services to the commission.

B. The commission consists of twelve members, eleven of whom are appointed by the governor with the advice and consent of the senate. The commission shall include the lieutenant governor and nine appropriate representatives from the counties, or adjoining counties, in which military bases are located. Two additional members shall be appointed at large from other counties.

C. The governor shall appoint a chair from among the members of the commission. The commission shall meet at the call of the chair and shall meet not less than quarterly. Members of the commission shall not be paid but shall receive per diem and mileage expenses as provided in the Per Diem and Mileage Act.

D. Notwithstanding the provisions of the Open Meetings Act, meetings of the commission shall be closed to the public when proprietary alternative New Mexico military base realignment or closure strategies or any information regarding relocation of military units is discussed.

E. Information developed or obtained by the commission that pertains to proprietary commission strategies or related to the relocation of military units shall be confidential and not subject to inspection pursuant to the Inspection of Public Records Act."

Chapter 123 Section 3 Laws 2015

SECTION 3. REPEAL.--Section 9-15-51 NMSA 1978 (being Laws 2003, Chapter 166, Section 4, as amended) is repealed.

Chapter 123 Section 4 Laws 2015

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 369, aa

Approved April 9, 2015

LAWS 2015, CHAPTER 124

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; REVISING THE LIQUOR CONTROL ACT TO CREATE RETAIL RECIPROCITY BETWEEN SMALL BREWERS AND WINEGROWERS; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2001 BY REPEALING LAWS 2001,

CHAPTER 248, SECTION 2.

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

Chapter 124 Section 1 Laws 2015

SECTION 1. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended) is amended to read:

"60-6A-11. WINEGROWER'S LICENSE.--

A. A person in this state who produces wine is exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to rules adopted by the director; provided, however, that, for purposes of determining annual production and compliance with the fifty percent New Mexico grown provision of this subsection, the calculation of a winegrower's overall annual production of wine shall not include the winegrower's production of wine for out-of-state wine producer license holders.

B. A person issued a winegrower's license pursuant to this section may do any of the following:

(1) manufacture or produce wine, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine is manufactured or produced for a winegrower or an out-of-state wine producer holding a permit issued pursuant to the Federal Alcohol Administration Act and a valid license in a state that authorizes the wine producer to manufacture, produce, store or sell wine;

(2) store, transport, import or export wines;

(3) sell wines to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's or wine exporter's license or to a winegrower's agent;

(4) transport not more than two hundred cases of wine in a calendar year to another location within New Mexico by common carrier;

(5) deal in warehouse receipts for wine;

(6) sell wines in other states or foreign jurisdictions to the holders of a license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine;

(7) buy wine or distilled wine products from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, mixing or bottling of wines;

(8) buy or otherwise obtain beer from a small brewer for the purposes described in this subsection;

(9) conduct wine tastings and sell, by the glass or by the bottle, or sell in unbroken packages for consumption off the premises, but not for resale, wine of the winegrower's own production, wine produced by another New Mexico winegrower on the winegrower's premises or beer produced and bottled by or for a small brewer pursuant to Section 60-2A-26.1 NMSA 1978;

(10) at no more than three off-premises locations, conduct wine tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine of the winegrower's own production, wine produced by another New Mexico winegrower or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and the department rules for new liquor license locations;

(11) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act; and

(12) at public celebrations on or off the winegrower's premises, after the winegrower has paid the applicable fees and been issued the appropriate permit, to conduct wine tastings, sell by the glass or the bottle, or sell in unbroken packages, for consumption off premises, but not for resale, wine produced by or for the winegrower.

C. Sales of wine or beer as provided for in this section shall be permitted between the hours of 7:00 a.m. and midnight Monday through Saturday, and the holder of a winegrower's license or public celebration permit may conduct wine tastings and sell, by the glass or bottle, or sell in unbroken packages for consumption off premises, but not for resale, wine of the winegrower's own production or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 on the winegrower's premises between the hours of 12:00 noon and midnight on Sunday.

D. At public celebrations off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "winegrower's public celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other winegrowers and small brewers. As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.

E. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine produced or blended:

(1) less than five thousand gallons per year, twenty-five dollars (\$25.00) per year;

(2) between five thousand and one hundred thousand gallons per year, one hundred dollars (\$100) per year; and

(3) over one hundred thousand gallons per year, two hundred fifty dollars (\$250) per year."

Chapter 124 Section 2 Laws 2015

SECTION 2. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended by Laws 2001, Chapter 248, Section 2 and by Laws 2001, Chapter 260, Section 2) is amended to read:

"60-6A-26.1. SMALL BREWER'S LICENSE.--

A. In any local option district, a person qualified under the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a small brewer's license.

B. A small brewer's license authorizes the person to whom it is issued to:

(1) become a manufacturer or producer of beer;

(2) package, label and export beer, whether manufactured, bottled or produced by the licensee or any other person;

(3) sell only beer that is packaged by or for the licensee to a person holding a wholesaler's license or a small brewer's license;

(4) deal in warehouse receipts for beer;

(5) conduct beer tastings and sell for consumption on or off premises, but not for resale, beer produced and bottled by, or produced and packaged for, the licensee, beer produced and bottled by or for another New Mexico small brewer on the small brewer's premises or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

(6) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;

(7) at public celebrations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's public celebration permit, conduct tastings and sell by the glass or in unbroken packages, but not for resale, beer produced and bottled by or for the small brewer or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

(8) buy or otherwise obtain wine from a winegrower;

(9) for the purposes described in this subsection, at no more than three other locations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a small brewer's off-premises permit for each off-premises location, conduct beer tastings and sell by the glass or in unbroken packages for consumption off the small brewer's off-premises location, but not for resale, beer produced and bottled by or for the small brewer, beer produced and bottled by or for another New Mexico small brewer or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978; and

(10) allow members of the public, on the licensed premises and under the direct supervision of the licensee, to manufacture beer for personal consumption and not for resale using the licensee's equipment and ingredients.

C. At public celebrations off the small brewer's premises in any local option district permitting the sale of alcoholic beverages, the holder of a small brewer's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "small brewer's public celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a small brewer's license a public celebration permit for a location at the public celebration that is to be shared with other small brewers and winegrowers. As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.

D. Sales and tastings of beer or wine authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of noon and midnight on Sunday and shall conform to the limitations regarding Christmas and voting-day sales found in Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday."

Chapter 124 Section 3 Laws 2015

SECTION 3. REPEAL.--Laws 2001, Chapter 248, Section 2 is repealed.

Chapter 124 Section 4 Laws 2015

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 440

Approved April 9, 2015

LAWS 2015, CHAPTER 125

AN ACT

RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005 BY REPEALING LAWS 2005, CHAPTER 108, SECTION 5 AND

INSERTING THE SUBSTANTIVE PROVISIONS OF THAT SECTION AND
CORRECTING A NUMERICAL REFERENCE.

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

Chapter 125 Section 1 Laws 2015

SECTION 1. Section 9-11-4 NMSA 1978 (being Laws 1977, Chapter 249, Section 4, as amended by Laws 2005, Chapter 108, Section 5 and by Laws 2005, Chapter 110, Section 6) is amended to read:

"9-11-4. DEPARTMENT ESTABLISHED.--There is created in the executive branch the "taxation and revenue department". The department shall be a cabinet department and shall consist of, but not be limited to, seven divisions as follows:

- A. the audit and compliance division;
- B. the property tax division;
- C. the revenue processing division;
- D. the tax fraud investigations division;
- E. the motor vehicle division;
- F. the administrative services division; and
- G. the information technology division."

Chapter 125 Section 2 Laws 2015

SECTION 2. REPEAL.--Laws 2005, Chapter 108, Section 5 is repealed.

Senate Bill 507

Approved April 9, 2015

LAWS 2015, CHAPTER 126

AN ACT

RELATING TO TAXATION; PROVIDING THAT A DISABLED VETERAN'S PROPERTY TAX EXEMPTION MAY REMAIN ON SUBSEQUENTLY TRANSFERRED PROPERTY OR MAY ATTACH TO NEW PROPERTY.

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

Chapter 126 Section 1 Laws 2015

SECTION 1. Section 7-37-5.1 NMSA 1978 (being Laws 2000, Chapter 92, Section 1 and Laws 2000, Chapter 94, Section 1, as amended) is amended to read:

"7-37-5.1. DISABLED VETERAN EXEMPTION.--

A. As used in this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a one hundred percent permanent and total service-connected disability; and

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge.

B. The property of a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from property taxation if it is occupied by the disabled veteran as the veteran's principal place of residence. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from property taxation if the property otherwise meets the requirements for exemption in this subsection or Subsection C of this section.

C. The property of the surviving spouse of a disabled veteran is exempt from property taxation if:

(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death; and

(2) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence.

D. Upon the transfer of the principal place of residence of a disabled veteran or of a surviving spouse of a disabled veteran entitled to and granted a disabled veteran exemption, the disabled veteran or the surviving spouse may choose to:

(1) maintain the exemption for that residence for the remainder of the year, even if the residence is transferred during the year; or

(2) remove the exemption for that residence and apply it to the disabled veteran's or the disabled veteran's surviving spouse's new principal place of residence, regardless of whether the exemption was applied for and claimed within thirty days of the mailing of the county assessor's notice of valuation made pursuant to the provisions of Section 7-38-20 NMSA 1978.

E. The exemption provided by this section may be referred to as the "disabled veteran exemption".

F. The disabled veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and the rules of the department.

G. The veterans' services department shall assist the department and the county assessors in determining which veterans qualify for the disabled veteran exemption."

Chapter 126 Section 2 Laws 2015

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2016.

Senate Bill 506, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 127

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING A SECTION OF THE PUBLIC ASSISTANCE ACT AND ENACTING A NEW SECTION OF THE NMSA 1978 TO REQUIRE THE HUMAN SERVICES DEPARTMENT TO PROVIDE FOR CONTINUED MEDICAID ELIGIBILITY FOR INCARCERATED INDIVIDUALS WHO WERE ENROLLED IN MEDICAID UPON INCARCERATION AND ELIGIBILITY FOR MEDICAID FOR INDIVIDUALS DURING INCARCERATION.

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

Chapter 127 Section 1 Laws 2015

SECTION 1. Section 27-2-4 NMSA 1978 (being Laws 1973, Chapter 376, Section 4, as amended) is amended to read:

"27-2-4. ELIGIBILITY REQUIREMENTS.--Consistent with the federal act, a person is eligible for public assistance grants under the Public Assistance Act if:

A. pursuant to Section 27-2-3 NMSA 1978, the total amount of the person's nonexempt income is less than the applicable standard of need;

B. nonexempt specific and total resources are less than the level of maximum permissible resources established by the department;

C. the person meets all qualifications for one of the public assistance programs authorized by the Public Assistance Act;

D. within two years immediately prior to the filing of an application for assistance, the person has not made an assignment or transfer of real property unless the person has received a reasonable return for the real property or, if the person has not received a reasonable return, the person is willing to attempt to obtain such return and, if that attempt proves futile, the person is willing to attempt to regain title to the property;

E. the person is not an inmate of any public nonmedical institution at the time of receiving assistance, except that an inmate may be eligible for medical assistance programs administered by the medical assistance division of the department; and

F. the person is a resident of New Mexico."

Chapter 127 Section 2 Laws 2015

SECTION 2. INCARCERATED INDIVIDUALS--MEDICAID ELIGIBILITY.--

A. Incarceration shall not be a basis to deny or terminate eligibility for medicaid.

B. Upon release from incarceration, a formerly incarcerated individual shall remain eligible for medicaid until the individual is determined to be ineligible for medicaid on grounds other than incarceration.

C. An incarcerated individual who was not enrolled in medicaid upon the date that the individual became incarcerated shall be permitted to submit an application for medicaid during the incarcerated individual's period of incarceration.

D. The provisions of this section shall not be construed to abrogate:

(1) any deadline that governs the processing of applications for medicaid pursuant to existing federal or state law; or

(2) requirements under federal or state law that the human services department be notified of changes in income, resources, residency or household composition.

E. The provisions of this section shall not require the human services department to pay for services on behalf of any incarcerated individual, except as permitted by federal law.

F. A correctional facility shall inform the human services department when an eligible individual is incarcerated and shall notify the department upon that eligible individual's release.

G. The secretary of human services shall adopt and promulgate rules consistent with this section.

H. As used in this section:

(1) "eligibility" means a finding by the human services department that an individual has met the criteria established in state and federal law and the requirements established by department rules to enroll in medicaid;

(2) "incarcerated individual" means an individual, the legal guardian or conservator of an individual or, for an individual who is an unemancipated minor, the parent or guardian of the individual, who is confined in any of the following correctional facilities:

(a) a state correctional facility;

(b) a privately operated correctional facility;

(c) a county jail;

(d) a privately operated jail;

(e) a detention facility that is operated under the authority of the children, youth and families department and that holds the individual pending a court hearing; or

(f) a facility that is operated under the authority of the children, youth and families department and that provides for the care and rehabilitation of an individual who is under eighteen years of age and who has committed an act that would be designated as a crime under the law if committed by an individual who is eighteen years of age or older;

(3) "medicaid" means the joint federal-state health coverage program pursuant to Title 19 or Title 21 of the federal Social Security Act and rules promulgated pursuant to that act; and

(4) "unemancipated minor" means an individual who is under eighteen years of age and who:

(a) is not on active duty in the armed forces; and

(b) has not been declared by court order to be emancipated.

SJC/Senate Bill 42, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 128

AN ACT

RELATING TO FRAUD AGAINST TAXPAYERS; CLARIFYING THAT THE FRAUD AGAINST TAXPAYERS ACT APPLIES TO POLITICAL SUBDIVISIONS AND CHARTER SCHOOLS AS WELL AS THE STATE.

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

Chapter 128 Section 1 Laws 2015

SECTION 1. Section 44-9-2 NMSA 1978 (being Laws 2007, Chapter 40, Section 2) is amended to read:

"44-9-2. DEFINITIONS.--As used in the Fraud Against Taxpayers Act:

A. "claim" means a request or demand for money, property or services when all or a portion of the money, property or services requested or demanded issues from or is provided or reimbursed by the state or a political subdivision;

B. "employer" includes an individual, corporation, firm, association, business, partnership, organization, trust, charter school and the state and any of its agencies, institutions or political subdivisions;

C. "knowingly" means that a person, with respect to information, acts:

(1) with actual knowledge of the truth or falsity of the information;

(2) in deliberate ignorance of the truth or falsity of the information;

or

(3) in reckless disregard of the truth or falsity of the information;

D. "person" means an individual, corporation, firm, association, organization, trust, business, partnership, limited liability company, joint venture or any legal or commercial entity;

E. "political subdivision" means a political subdivision of the state or a charter school; and

F. "state" means the state of New Mexico or any of its branches, agencies, departments, boards, commissions, officers, institutions or instrumentalities, including the New Mexico finance authority, the New Mexico mortgage finance authority and the New Mexico lottery authority."

Chapter 128 Section 2 Laws 2015

SECTION 2. Section 44-9-3 NMSA 1978 (being Laws 2007, Chapter 40, Section 3) is amended to read:

"44-9-3. FALSE CLAIMS--LIABILITY--PENALTIES--EXCEPTION.--

A. A person shall not:

(1) knowingly present, or cause to be presented, to an employee, officer or agent of the state or a political subdivision or to a contractor, grantee or other recipient of state or political subdivision funds a false or fraudulent claim for payment or approval;

(2) knowingly make or use, or cause to be made or used, a false, misleading or fraudulent record or statement to obtain or support the approval of or the payment on a false or fraudulent claim;

(3) conspire to defraud the state or a political subdivision by obtaining approval or payment on a false or fraudulent claim;

(4) conspire to make, use or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state or a political subdivision;

(5) when in possession, custody or control of property or money used or to be used by the state or a political subdivision, knowingly deliver or cause to be delivered less property or money than the amount indicated on a certificate or receipt;

(6) when authorized to make or deliver a document certifying receipt of property used or to be used by the state or a political subdivision, knowingly make or deliver a receipt that falsely represents a material characteristic of the property;

(7) knowingly buy, or receive as a pledge of an obligation or debt, public property from any person that may not lawfully sell or pledge the property;

(8) knowingly make or use, or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state or a political subdivision; or

(9) as a beneficiary of an inadvertent submission of a false claim and having subsequently discovered the falsity of the claim, fail to disclose the false claim to the state or political subdivision within a reasonable time after discovery.

B. Proof of specific intent to defraud is not required for a violation of Subsection A of this section.

C. A person who violates Subsection A of this section shall be liable for:

(1) three times the amount of damages sustained by the state or political subdivision because of the violation;

(2) a civil penalty of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000) for each violation;

(3) the costs of a civil action brought to recover damages or penalties; and

(4) reasonable attorney fees, including the fees of the attorney general, state agency or political subdivision counsel.

D. A court may assess not less than two times the amount of damages sustained by the state or a political subdivision if the court finds all of the following:

(1) the person committing the violation furnished the attorney general or political subdivision with all information known to that person about the

violation within thirty days after the date on which the person first obtained the information;

(2) at the time that the person furnished the attorney general or political subdivision with information about the violation, a criminal prosecution, civil action or administrative action had not been commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation; and

(3) the person fully cooperated with any investigation by the attorney general or political subdivision.

E. This section does not apply to claims, records or statements made pursuant to the provisions of Chapter 7 NMSA 1978."

Chapter 128 Section 3 Laws 2015

SECTION 3. Section 44-9-4 NMSA 1978 (being Laws 2007, Chapter 40, Section 4) is amended to read:

"44-9-4. INVESTIGATION BY THE ATTORNEY GENERAL--DELEGATION--CIVIL ACTION.--

A. The attorney general shall diligently investigate suspected violations of Section 44-9-3 NMSA 1978, and if the attorney general finds that a person has violated or is violating that section, the attorney general may bring a civil action against that person pursuant to the Fraud Against Taxpayers Act.

B. The attorney general may in appropriate cases delegate the authority to investigate or to bring a civil action to the state agency or political subdivision to which a false claim was made, and when this occurs, the state agency or political subdivision shall have every power conferred upon the attorney general pursuant to the Fraud Against Taxpayers Act. If the attorney general has delegated authority to a state agency or political subdivision, all references to the attorney general in the Fraud Against Taxpayers Act shall apply to the delegee."

Chapter 128 Section 4 Laws 2015

SECTION 4. Section 44-9-5 NMSA 1978 (being Laws 2007, Chapter 40, Section 5) is amended to read:

"44-9-5. CIVIL ACTION BY QUI TAM PLAINTIFF--STATE OR POLITICAL SUBDIVISION MAY INTERVENE.--

A. A person may bring a civil action for a violation of Section 44-9-3 NMSA 1978 on behalf of the person and the state or political subdivision. The action shall be

brought in the name of the state or political subdivision. The person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be dismissed only with the written consent of the court, taking into account the best interest of the parties involved and the public purposes behind the Fraud Against Taxpayers Act.

B. A complaint filed by a qui tam plaintiff shall be filed in camera in district court and shall remain under seal for at least sixty days. No service shall be made on a defendant and no response is required from a defendant until the seal has been lifted and the complaint served pursuant to the rules of civil procedure.

C. On the same day as the complaint is filed, the qui tam plaintiff shall serve the attorney general, and the political subdivision, if applicable, with a copy of the complaint and written disclosure of substantially all material evidence and information the qui tam plaintiff possesses. The attorney general on behalf of the state or the political subdivision, or the political subdivision on its own behalf, may intervene and proceed with the action within sixty days after receiving the complaint and the material evidence and information. Upon a showing of good cause and reasonable diligence in the state's or political subdivision's investigation, the state or political subdivision may move the court for an extension of time during which the complaint shall remain under seal.

D. Before the expiration of the sixty-day period or any extensions of time granted by the court, the attorney general or political subdivision shall notify the court that the state or the political subdivision:

(1) intends to intervene and proceed with the action; in which case, the seal shall be lifted and the action shall be conducted by the attorney general on behalf of the state or the political subdivision, or the political subdivision shall conduct the action on its own behalf; or

(2) declines to take over the action; in which case the seal shall be lifted and the qui tam plaintiff may proceed with the action.

E. When a person brings an action pursuant to this section, no person other than the attorney general on behalf of the state or a political subdivision, or a political subdivision on its own behalf, may intervene or bring a related action based on the facts underlying the pending action."

Chapter 128 Section 5 Laws 2015

SECTION 5. Section 44-9-6 NMSA 1978 (being Laws 2007, Chapter 40, Section 6) is amended to read:

"44-9-6. RIGHTS OF THE QUI TAM PLAINTIFF AND THE STATE OR POLITICAL SUBDIVISION.--

A. If the state or political subdivision proceeds with the action, it shall have the primary responsibility of prosecuting the action and shall not be bound by an act of the qui tam plaintiff. The qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations of this section.

B. The state or political subdivision may seek to dismiss the action for good cause notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity to oppose the motion and to present evidence at a hearing.

C. The state or political subdivision may settle the action with the defendant notwithstanding any objection by the qui tam plaintiff if the court determines, after a hearing providing the qui tam plaintiff an opportunity to present evidence, that the proposed settlement is fair, adequate and reasonable under all of the circumstances.

D. Upon a showing by the state or political subdivision that unrestricted participation during the course of the litigation by the qui tam plaintiff would interfere with or unduly delay the prosecution of the case, or would be repetitious, irrelevant or for the purpose of harassment, the court may, in its discretion, impose limitations on the qui tam plaintiff's participation, such as:

- (1) limiting the number of witnesses the qui tam plaintiff may call;
- (2) limiting the length of testimony of such witnesses;
- (3) limiting the qui tam plaintiff's cross examination of witnesses; or
- (4) otherwise limiting the qui tam plaintiff's participation in the

litigation.

E. Upon a showing by a defendant that unrestricted participation during the course of litigation by the qui tam plaintiff would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the qui tam plaintiff in the litigation.

F. If the state or political subdivision elects not to proceed with the action, the qui tam plaintiff shall have the right to conduct the action. If the attorney general or political subdivision so requests, the qui tam plaintiff shall serve the attorney general or political subdivision with copies of all pleadings filed in the action and all deposition transcripts in the case, at the state's or political subdivision's expense. When the qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may permit the attorney general or political subdivision to intervene at a later date upon a showing of good cause.

G. Whether or not the state or political subdivision proceeds with the action, upon a showing by the attorney general on behalf of the state or political

subdivision, or a political subdivision on its own behalf, that certain actions of discovery by the qui tam plaintiff would interfere with an investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. The showing by the state or political subdivision shall be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the state or political subdivision has pursued the criminal or civil investigation or proceeding with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceeding.

H. Notwithstanding the provisions of Section 44-9-5 NMSA 1978, the attorney general or political subdivision may elect to pursue the state's or political subdivision's claim through any alternate remedy available, including an administrative proceeding to determine a civil money penalty. If an alternate remedy is pursued, the qui tam plaintiff shall have the same rights in such a proceeding as the qui tam plaintiff would have had if the action had continued pursuant to this section. A finding of fact or conclusion of law made in the other proceeding that has become final shall be conclusive on all parties to an action under the Fraud Against Taxpayers Act. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing an appeal with respect to the finding or conclusion has expired or if the finding or conclusion is not subject to judicial review."

Chapter 128 Section 6 Laws 2015

SECTION 6. Section 44-9-7 NMSA 1978 (being Laws 2007, Chapter 40, Section 7) is amended to read:

"44-9-7. AWARDS TO QUI TAM PLAINTIFF AND THE STATE OR POLITICAL SUBDIVISION.--

A. Except as otherwise provided in this section, if the state or a political subdivision proceeds with an action brought by a qui tam plaintiff and the state or political subdivision prevails in the action, the qui tam plaintiff shall receive:

(1) at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action; or

(2) no more than ten percent of the proceeds of the action or settlement if the court finds that the action was based primarily on disclosures of specific information, not provided by the qui tam plaintiff, relating to allegations or transactions in a criminal, civil, administrative or legislative hearing, proceeding, report, audit or investigation or from the news media, taking into account the significance of the information and the role of the qui tam plaintiff in advancing the case to litigation. However, if the attorney general or political subdivision determines and certifies in writing that the qui tam plaintiff provided a significant contribution in advancing the case,

then the qui tam plaintiff shall receive the share of proceeds set forth in Paragraph (1) of this subsection.

B. If the state or political subdivision does not proceed with an action brought by a qui tam plaintiff and the state or political subdivision prevails in the action, the qui tam plaintiff shall receive an amount that is not less than twenty-five percent or more than thirty percent of the proceeds of the action or settlement, as the court deems reasonable for collecting the civil penalty and damages.

C. Whether or not the state or political subdivision proceeds with an action brought by a qui tam plaintiff:

(1) if the court finds that the action was brought by a person that planned or initiated the violation of Section 44-9-3 NMSA 1978 upon which the action was based, the court may reduce the share of the proceeds that the person would otherwise receive under Subsection A or B of this section, taking into account the role of the person as the qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation; or

(2) if the person bringing the action is convicted of criminal conduct arising from that person's role in the violation of Section 44-9-3 NMSA 1978 upon which the action was based, that person shall be dismissed from the civil action and shall not receive a share of the proceeds. The dismissal shall not prejudice the right of the state or political subdivision to continue the action.

D. Any award to a qui tam plaintiff shall be paid out of the proceeds of the action or settlement, if any. The qui tam plaintiff shall also receive an amount for reasonable expenses incurred in the action plus reasonable attorney fees that shall be paid by the defendant.

E. The state or political subdivision is entitled to all proceeds collected in an action or settlement not awarded to a qui tam plaintiff. The state or political subdivision is also entitled to reasonable expenses incurred in the action plus reasonable attorney fees, including the fees of the attorney general or state agency counsel or counsel employed by the political subdivision that shall be paid by the defendant.

F. Proceeds and penalties collected by the state or political subdivision shall be deposited as follows:

(1) proceeds in the amount of the false claim paid and attorney fees and costs shall be returned to the fund or funds from which the money, property or services came;

(2) civil penalties shall be deposited in the current school fund pursuant to Article 12, Section 4 of the constitution of New Mexico;

(3) except as provided in Paragraph (4) of this subsection, all remaining proceeds shall be deposited as follows:

(a) one-half into a fund for the use of the attorney general in furtherance of the obligations imposed upon that office by the Fraud Against Taxpayers Act; and

(b) one-half into the general fund; or

(4) remaining proceeds collected by counties or municipalities as political subdivisions acting on their own behalf shall be disposed of in accordance with the direction of the governing body of the county or municipality."

Chapter 128 Section 7 Laws 2015

SECTION 7. Section 44-9-8 NMSA 1978 (being Laws 2007, Chapter 40, Section 8) is amended to read:

"44-9-8. AWARD OF ATTORNEY FEES AND COSTS TO DEFENDANT.--If the state or political subdivision does not proceed with the action and the qui tam plaintiff conducts the action, the court may award a defendant reasonable attorney fees and costs if the defendant prevails and the court finds the action clearly frivolous, clearly vexatious or brought primarily for the purpose of harassment."

Chapter 128 Section 8 Laws 2015

SECTION 8. Section 44-9-9 NMSA 1978 (being Laws 2007, Chapter 40, Section 9) is amended to read:

"44-9-9. CERTAIN ACTIONS BARRED.--

A. No court shall have jurisdiction over an action brought pursuant to Section

44-9-5 NMSA 1978 by a present or former employee of the state or political subdivision unless the employee, during employment with the state or political subdivision and in good faith, exhausted existing internal procedures for reporting false claims and the state or political subdivision failed to act on the information provided within a reasonable period of time.

B. No court shall have jurisdiction over an action brought pursuant to Section

44-9-5 NMSA 1978 against an elected or appointed state official, a member of the state legislature or a member of the judiciary if the action is based on evidence or information

known to the state agency to which the false claim was made or to the attorney general when the action was filed.

C. Unless the attorney general or political subdivision determines and certifies in writing that the action is in the interest of the state or political subdivision, no court shall have jurisdiction over an action brought pursuant to Section 44-9-5 NMSA 1978 when that action is based on allegations or transactions that are the subject of a criminal, civil or administrative proceeding in which the state or political subdivision is a party.

D. Upon motion of the attorney general or political subdivision, a court may, in its discretion, dismiss an action brought pursuant to Section 44-9-5 NMSA 1978 if the elements of the alleged false or fraudulent claim have been publicly disclosed in the news media or in a publicly disseminated governmental report at the time the complaint is filed."

Chapter 128 Section 9 Laws 2015

SECTION 9. Section 44-9-10 NMSA 1978 (being Laws 2007, Chapter 40, Section 10) is amended to read:

"44-9-10. STATE OR POLITICAL SUBDIVISION NOT LIABLE.--The state or political subdivision shall not be liable for expenses or fees that a qui tam plaintiff may incur in investigating or bringing an action pursuant to the Fraud Against Taxpayers Act."

Chapter 128 Section 10 Laws 2015

SECTION 10. Section 44-9-12 NMSA 1978 (being Laws 2007, Chapter 40, Section 12) is amended to read:

"44-9-12. LIMITATION OF ACTIONS--ESTOPPEL--STANDARD OF PROOF.--

A. A civil action pursuant to the Fraud Against Taxpayers Act may be brought at any time. A civil action pursuant to the Fraud Against Taxpayers Act may be brought for conduct that occurred prior to the effective date of that act, but not for conduct that occurred prior to July 1, 1987.

B. Notwithstanding any other provision of law, a final judgment rendered in a criminal proceeding charging fraud or false statement, whether upon a guilty verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of a fraud against taxpayers action where the criminal proceeding concerns the same transaction that is the subject of the fraud against taxpayers action.

C. In an action brought pursuant to the Fraud Against Taxpayers Act, the state or political subdivision or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence."

SJC/SPAC/Senate Bill 208

Approved April 10, 2015

LAWS 2015, CHAPTER 129

AN ACT

RELATING TO BODY ART; CREATING THE BOARD OF BODY ART PRACTITIONERS; CREATING THE BODY ART PRACTITIONERS FUND; PROVIDING POWERS AND DUTIES; REVISING POWERS AND DUTIES OF THE BOARD OF BARBERS AND COSMETOLOGISTS; REPEALING SECTIONS 61-17B-12 AND 61-17B-14 NMSA 1978 (BEING LAWS 2007, CHAPTER 181, SECTIONS 12 AND 14); MAKING AN APPROPRIATION.

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

Chapter 129 Section 1 Laws 2015

SECTION 1. Section 61-17A-6 NMSA 1978 (being Laws 1993, Chapter 171, Section 6, as amended) is amended to read:

"61-17A-6. BOARD CREATED--MEMBERSHIP.--

A. The "board of barbers and cosmetologists" is created. The board is administratively attached to the regulation and licensing department. The board consists of seven members appointed by the governor. Members shall serve three-year terms; provided that at the time of initial appointment, the governor shall appoint members to abbreviated terms to allow staggering of subsequent appointments. Vacancies shall be filled in the manner of the original appointment.

B. Of the seven members of the board, five shall be licensed pursuant to the Barbers and Cosmetologists Act and shall have at least five years' practical experience in their respective occupations. Of those five, two members shall be licensed barbers, two members shall be licensed cosmetologists and one member shall represent school owners. The remaining two members shall be public members. Neither the public members nor their spouses shall have ever been licensed pursuant to the provisions of the Barbers and Cosmetologists Act or similar prior legislation or have a financial interest in a school or establishment.

C. Members of the board shall be reimbursed pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

D. The board shall elect from among its members a chair and such other officers as it deems necessary. The board shall meet at the call of the chair, not less than four times each year. A majority of members currently serving shall constitute a quorum for the conduct of business.

E. No board member shall serve more than two full consecutive terms and any member who fails to attend, after proper notice, three meetings shall automatically be recommended for removal unless excused for reasons set forth by board rule."

Chapter 129 Section 2 Laws 2015

SECTION 2. Section 61-17A-7 NMSA 1978 (being Laws 1993, Chapter 171, Section 7, as amended) is amended to read:

"61-17A-7. BOARD POWERS AND DUTIES.--

A. The board shall:

(1) adopt and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Barbers and Cosmetologists Act;

(2) establish fees;

(3) provide for the examination, licensure and license renewal of applicants for licensure;

(4) establish standards for and provide for the examination, licensure and license renewal of manicurists-pedicurists, estheticians and electrologists;

(5) adopt a seal;

(6) furnish copies of rules and sanitary requirements adopted by the board to each owner or manager of an establishment, enterprise or school;

(7) keep a record of its proceedings and a register of applicants for licensure;

(8) provide for the licensure of barbers, cosmetologists, manicurists-pedicurists, estheticians, electrologists, instructors, schools, enterprises and establishments;

(9) establish administrative penalties and fines;

(10) create and establish standards and fees for special licenses;

(11) establish guidelines for schools to calculate tuition refunds for withdrawing students; and

(12) issue cease and desist orders to persons violating the provisions of the Barbers and Cosmetologists Act and rules promulgated in accordance with that act.

B. The board may establish continuing education requirements as requirements for licensure.

C. A member of the board, its employees or agents may enter and inspect a school, enterprise or establishment at any time during regular business hours for the purpose of determining compliance with the Barbers and Cosmetologists Act."

Chapter 129 Section 3 Laws 2015

SECTION 3. Section 61-17B-1 NMSA 1978 (being Laws 2007, Chapter 181, Section 1) is amended to read:

"61-17B-1. SHORT TITLE.--Chapter 61, Article 17B NMSA 1978 may be cited as the "Body Art Safe Practices Act"."

Chapter 129 Section 4 Laws 2015

SECTION 4. Section 61-17B-3 NMSA 1978 (being Laws 2007, Chapter 181, Section 3) is amended to read:

"61-17B-3. DEFINITIONS.--As used in the Body Art Safe Practices Act:

A. "board" means the board of body art practitioners;

B. "body art" means tattooing, body piercing or scarification but does not include practices that are considered medical procedures by the New Mexico medical board;

C. "body art establishment" means a fixed or mobile place where body art is administered on the premises;

D. "body artist" means a person who administers body piercing, tattooing or scarification;

E. "body piercing" means to cut, stab or penetrate the skin to create a permanent hole or opening;

F. "equipment" means machinery used in connection with the operation of a body art establishment, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and other apparatuses and appurtenances;

G. "instruments used for body art" means hand pieces, needles, needle bars and other items that may come into contact with a person's body during the administration of body art;

H. "operator" means the owner in charge of a body art establishment;

I. "scarification" means cutting into the skin with a sharp instrument or branding the skin with a heated instrument to produce a permanent mark or design on the skin;

J. "sharps" means any sterilized object that is used for the purpose of penetrating the skin or mucosa, including needles, scalpel blades and razor blades;

K. "single use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves;

L. "sterilization" means destruction of all forms of microbotic life, including spores; and

M. "tattooing" means the practice of depositing pigment, which is either permanent, semipermanent or temporary, into the epidermis using needles by someone other than a state-licensed physician or a person under the supervision of a state-licensed physician and includes permanent cosmetics, dermography, micropigmentation, permanent color technology and micropigment implantation."

Chapter 129 Section 5 Laws 2015

SECTION 5. Section 61-17B-5 NMSA 1978 (being Laws 2007, Chapter 181, Section 5) is amended to read:

"61-17B-5. LICENSE--APPLICATION--REVOCATION--SUSPENSION.--

A. A body artist shall obtain a body art license, and an operator shall obtain a body art establishment license, the requirements for which shall be defined by the board and shall include the requirement that a body artist applicant demonstrate that the body artist has the training and experience necessary to perform body piercing, tattooing or scarification and the requirement that a sanitary and sterile body art establishment be maintained.

B. An operator or body artist shall possess and post in a conspicuous place a valid and unsuspended license issued by the board in accordance with the Body Art Safe Practices Act and the rules promulgated pursuant to that act. An operator or a body artist shall not display a license unless it has been issued to that operator or body artist by the board and has not been suspended or revoked.

C. An operator or body artist shall apply to the board for the issuance or renewal of a license annually and shall pay license fees established by the board. The board shall set license fees, license renewal fees and late fees in amounts necessary to administer the provisions of the Body Art Safe Practices Act. If an operator or body artist fails to renew a license for the next year, the license is void; provided that the voided license may be restored at any time during the year following the license's expiration upon the payment of the appropriate license renewal fee and a late charge not to exceed one hundred dollars (\$100) as set forth by board rules. If the operator or body artist fails to restore a license within one year following the license's expiration, the operator or body artist may request restoration of the license pursuant to rules promulgated by the board.

D. The board shall promulgate rules for the revocation or suspension of a license for a body art establishment or a body artist who fails to comply with a provision of the Body Art Safe Practices Act or rules promulgated pursuant to that act. A license shall not be suspended or revoked pursuant to the Body Art Safe Practices Act without providing the operator or the body artist with an opportunity for an administrative hearing unless conditions in the body art establishment warrant immediate suspension pursuant to Section 61-17B-9 NMSA 1978. The hearing officer shall not be a person previously involved in the suspension or revocation action. An inspection made more than twenty-four months prior to the most recent inspection shall not be used as a basis for suspension or revocation.

E. The board shall charge a fee not to exceed three hundred dollars (\$300) for the application to issue a new or renewed license. The applicant shall provide proof of current immunization as required by the board and proof of the applicant's attendance at a blood-borne pathogen training program and other training as required by the board before a license is issued or renewed.

F. A current body art license or body art establishment license shall not be transferable from one person to another.

G. The following information shall be kept on the premises of a body art establishment and shall be available for inspection by the board:

(1) the full names of all employees in the establishment and their exact duties;

(2) the board-issued license with identification photograph for the operator and any body artists;

(3) the body art establishment name and hours of operation;

(4) the name and address of the operator;

(5) a complete description of all body art performed at the body art establishment;

(6) a list of all instruments, body jewelry, sharps and inks used at the body art establishment, including names of manufacturers and serial or lot numbers or invoices or other documentation sufficient to identify and locate the manufacturer of those items; and

(7) a current copy of the Body Art Safe Practices Act.

H. An operator shall notify the board in writing not less than thirty days before changing the location of a body art establishment. The notice shall include the street address of the body art establishment's new location."

Chapter 129 Section 6 Laws 2015

SECTION 6. A new section of the Body Art Safe Practices Act is enacted to read:

"BOARD CREATED--MEMBERSHIP.--

A. The "board of body art practitioners" is created. The board is administratively attached to the regulation and licensing department and consists of five members appointed by the governor. Members shall serve three-year terms; provided that at the time of initial appointment, the governor shall appoint members to abbreviated terms to allow for the terms of subsequent appointments to be staggered. Vacancies shall be filled in the manner of the original appointment.

B. Of the five members of the board, four shall be licensed pursuant to the Body Art Safe Practices Act and shall have at least five years' practical experience in their occupations. Of those four, two members shall be operators and two members shall be body artists. The remaining one member shall be a public member. The public member shall not have ever been licensed pursuant to the provisions of the Body Art Safe Practices Act or similar prior legislation or have a financial interest in a body art establishment.

C. Members of the board shall be reimbursed pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

D. The board shall elect from among its members a chair and such other officers as it deems necessary. The board shall meet at the call of the chair, not less than two times each year. A majority of members currently serving constitutes a quorum for the conduct of business.

E. A board member shall not serve more than two full consecutive terms, and a member who fails to attend three meetings shall automatically be recommended for removal unless the member's absence is excused for reasons set forth by board rule."

Chapter 129 Section 7 Laws 2015

SECTION 7. A new section of the Body Art Safe Practices Act is enacted to read:

"BODY ART PRACTITIONERS FUND CREATED.--The "body art practitioners fund" is created in the state treasury. The fund consists of appropriations; license fees, charges and fines that are imposed by the board and that shall be deposited into the fund; and money otherwise accruing to the fund. Money in the fund is appropriated to the board for the purpose of carrying out the provisions of the Body Art Safe Practices Act. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the chair of the board or the chair's authorized representative. Any balance remaining in the fund at the end of a fiscal year shall not revert to the general fund."

Chapter 129 Section 8 Laws 2015

SECTION 8. A new section of the Body Art Safe Practices Act is enacted to read:

"BOARD POWERS AND DUTIES.--

A. The board shall:

(1) in conjunction with the department of health, promulgate rules necessary to implement the provisions of the Body Art Safe Practices Act;

(2) establish fees;

(3) establish standards and provide for the issuance of new and renewal operator and body artist licenses to applicants;

(4) adopt a seal;

(5) furnish copies of rules and sanitation and sterilization requirements adopted by the board to each operator of a body art establishment;

(6) keep a record of its proceedings, a register of applicants for licensure and a register of licensed operators and body artists; and

(7) issue cease and desist orders to persons who violate the provisions of the Body Art Safe Practices Act or rules promulgated pursuant to that act.

B. The board may establish continuing education or other requirements for licensure.

C. A member of the board, its employees or agents may enter and inspect a body art establishment at any time during regular business hours for the purpose of determining compliance with the Body Art Safe Practices Act."

Chapter 129 Section 9 Laws 2015

SECTION 9. A new section of the Body Art Safe Practices Act is enacted to read:

"TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of body art practitioners is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Body Art Safe Practices Act until July 1, 2022. Effective July 1, 2022, the Body Art Safe Practices Act is repealed."

Chapter 129 Section 10 Laws 2015

SECTION 10. TEMPORARY PROVISION--TRANSFER OF APPROPRIATIONS, PROPERTY, EQUIPMENT, SUPPLIES, PERSONNEL, MONEY, CONTRACTS AND LEGAL AND ADMINISTRATIVE PROCEEDINGS--EXISTING LICENSES-- STATUTORY REFERENCES.--

A. On the effective date of this act:

(1) all personnel and all money, appropriations, records, furniture, equipment, supplies and other property that belonged or were allocated to the board of barbers and cosmetologists for use in connection with the implementation of the Body Art Safe Practices Act are transferred to the board of body art practitioners;

(2) all money that is in the barbers and cosmetologists fund that was paid into the fund pursuant to the Body Art Safe Practices Act or regulations promulgated pursuant to that act shall be transferred to the body art practitioners fund;

(3) all existing contracts, agreements and other obligations that relate to the Body Art Safe Practices Act or the board of barbers and cosmetologists work pursuant to that act shall be binding on the board of body art practitioners;

(4) all pending court cases, legal actions, appeals and other legal proceedings and all pending administrative proceedings that involve the board of barbers and cosmetologists that relate solely to the implementation of the Body Art Safe Practices Act shall be unaffected and shall continue in the name of the board of body art practitioners. Pending legal or administrative proceedings described in this paragraph that relate to the board of barbers and cosmetologists and to the implementation of the Body Art Safe Practices Act shall be unaffected, but the board of body art practitioners shall be joined as a party;

(5) all rules, orders and other official acts of the board of barbers and cosmetologists pursuant to the Body Art Safe Practices Act shall continue in effect until amended, replaced or repealed by the board of body art practitioners; and

(6) references in the law, rules and orders to the board of barbers and cosmetologists in connection with the Body Art Safe Practices Act shall be deemed references to the board of body art practitioners.

B. Licenses that were issued before the effective date of this act by the board of barbers and cosmetologists pursuant to the Body Art Safe Practices Act shall remain in effect until the license expires or is renewed or reissued by the board of body art practitioners.

Chapter 129 Section 11 Laws 2015

SECTION 11. REPEAL.--Sections 61-17B-12 and 61-17B-14 NMSA 1978 (being Laws 2007, Chapter 181, Sections 12 and 14) are repealed.

Chapter 129 Section 12 Laws 2015

SECTION 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

SPAC/Senate Bill 275, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 130

AN ACT

RELATING TO TAXATION; CREATING A NEW SUSTAINABLE BUILDING TAX CREDIT WITH WATER CONSERVATION REQUIREMENTS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT.

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

Chapter 130 Section 1 Laws 2015

SECTION 1. A new section of the Income Tax Act is enacted to read:

"NEW SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "new sustainable building tax credit". The new sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the new sustainable building tax credit provided in the Corporate Income and Franchise Tax Act has been claimed.

B. The purpose of the new sustainable building tax credit is to encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

C. A taxpayer who files an income tax return is eligible to be granted a new sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection K of this section with the taxpayer's income tax return.

D. For taxable years ending on or before December 31, 2026, the new sustainable building tax credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

Qualified	Tax Credit
Occupied	per Square
Square Footage	Foot

LEED-NC Silver	First 10,000	\$3.50
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	Next 40,000	\$1.75
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	Over 50,000	
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	up to 500,000	\$.70
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LEED-NC Gold	First 10,000	\$4.75
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	Next 40,000	\$2.00
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	Over 50,000	
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up to 500,000 \$1.00

First 10,000 \$6.25

Next 40,000 \$3.25

Over 50,000

up to 500,000 \$2.00

LEED-EB or CS Silver First 10,000 \$2.50

Next 40,000 \$1.25

Over 50,000

up to 500,000 \$.50

LEED-EB or CS Gold First 10,000 \$3.35

Next 40,000 \$1.40

Over 50,000

up to 500,000 \$.70

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First 10,000 \$4.40

Next 40,000 \$2.30

Over 50,000

up to 500,000 \$1.40

LEED-CI Silver First 10,000 \$1.40

Next 40,000 \$.70

Over 50,000

up to 500,000 \$.30

LEED-CI Gold First 10,000 \$1.90

Next 40,000 \$.80

Over 50,000		
up to 500,000	\$.40	
First 10,000	\$2.50	
Next 40,000	\$1.30	
Over 50,000		
up to 500,000	\$.80.	

E. For taxable years ending on or before December 31, 2026, the new sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

Qualified	Tax Credit
Occupied	per Square
Square Footage	Foot

Build	Up to 2,000	\$3.00
	Green NM Silver	
	LEED-H Gold or Build	Up to 2,000 \$4.50
	Green NM Gold	
Build	Up to 2,000	\$6.50
	Green NM Emerald	
	Manufactured Housing	Up to 2,000 \$3.00.

F. A person that is a building owner may apply for a certificate of eligibility for the new sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which

the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection G of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of new sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2017, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

(1) the owner of the sustainable residential building at the time the certification level for the building is awarded; or

(2) the subsequent purchaser of a sustainable residential building with respect to which no tax credit has been previously claimed.

G. Except as provided in Subsection H of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of new sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Corporate Income and Franchise Tax Act shall not exceed in any calendar year an aggregate amount of:

(1) one million two hundred fifty thousand dollars (\$1,250,000) with respect to sustainable commercial buildings;

(2) three million three hundred seventy-five thousand dollars (\$3,375,000) with respect to sustainable residential buildings that are not manufactured housing; and

(3) three hundred seventy-five thousand dollars (\$375,000) with respect to sustainable residential buildings that are manufactured housing.

H. For any taxable year that the energy, minerals and natural resources department determines that applications for sustainable building tax credits for any type of sustainable building pursuant to Paragraph (1), (2) or (3) of Subsection G of this section are less than the aggregate limit for that type of sustainable building for that taxable year, the energy, minerals and natural resources department shall allow the difference between the aggregate limit and the applications to be added to the aggregate limit of another type of sustainable building for which applications exceeded the aggregate limit for that taxable year. Any excess not used in a taxable year shall not be carried forward to subsequent taxable years.

I. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be used as a component of qualification for the rating system certification level used in determining eligibility for the new sustainable building tax credit, unless a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the new sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

J. To be eligible for the new sustainable building tax credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection F of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit for which the building owner is eligible.

K. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a new sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the building owner with that taxpayer's income tax return, if applicable, or may be sold, exchanged or otherwise transferred to another taxpayer. 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.

L. If the approved amount of a new sustainable building tax credit for a taxpayer in a taxable year represented by a document issued pursuant to Subsection K of this section is:

(1) less than one hundred thousand dollars (\$100,000), a maximum of twenty-five thousand dollars (\$25,000) shall be applied against the taxpayer's income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit; or

(2) one hundred thousand dollars (\$100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's income tax liability.

M. If the sum of all new sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection L of this section, exceeds the taxpayer's income tax liability for that taxable year, the excess may be carried forward for a period of up to seven years.

N. A taxpayer who otherwise qualifies and claims a new sustainable building tax credit with respect to a sustainable building 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 sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

O. 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 new sustainable building tax credit that would have been allowed on a joint return.

P. The department shall compile an annual report on the new sustainable building tax credit created pursuant to this section 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. Beginning in 2019 and every three years thereafter that the credit is in effect, the department shall compile and present the annual reports 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.

Q. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by build green New Mexico in November 2014, which include water conservation standards;

(2) "LEED-CI" means the LEED rating system for commercial interiors;

(3) "LEED-CS" means the LEED rating system for the core and shell of buildings;

(4) "LEED-EB" means the LEED rating system for existing buildings;

(5) "LEED gold" means the rating in compliance with, or exceeding, the second-highest rating awarded by the LEED certification process;

(6) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;

(7) "LEED-H" means the LEED rating system for homes;

(8) "LEED-NC" means the LEED rating system for new buildings and major renovations;

(9) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(10) "LEED silver" means the rating in compliance with, or exceeding, the third-highest rating awarded by the LEED certification process;

(11) "manufactured housing" means a multisectioned home that is:

(a) a manufactured home or modular home;

(b) a single-family dwelling with a heated area of at least thirty-six feet by twenty-four feet and a total area of at least eight hundred sixty-four square feet;

(c) constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or New Mexico construction codes up to the date of the unit's construction; and

(d) installed consistent with the Manufactured Housing Act and rules adopted pursuant to that act relating to permanent foundations;

(12) "qualified occupied square footage" means the occupied spaces of the building as determined by:

(a) the United States green building council for those buildings obtaining LEED certification;

(b) the administrators of the build green New Mexico rating system for those homes obtaining build green New Mexico certification; and

(c) the United States environmental protection agency for ENERGY STAR-certified manufactured homes;

(13) "person" does not include state, local government, public school district or tribal agencies;

(14) "sustainable building" means either a sustainable commercial building or a sustainable residential building;

(15) "sustainable commercial building" means a multifamily dwelling unit, as registered and certified under the LEED-H or build green New Mexico rating system, that is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher and has achieved a home energy rating system index of sixty or lower as developed by the residential energy

services network or a building that has been registered and certified under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

(a) is certified by the United States green building council at LEED silver or higher;

(b) achieves any prerequisite for and at least one point related to commissioning under LEED "energy and atmosphere", if included in the applicable rating system; and

(c) has reduced energy consumption beginning January 1, 2012, by sixty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(16) "sustainable residential building" means:

(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating system that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher; 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; 3) has indoor plumbing fixtures and water-using appliances that, on average, have flow rates equal to or lower than the flow rates required for certification by WaterSense; 4) if landscape area is available at the front of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; and 5) if landscape area is available at the rear of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; or

(b) manufactured housing that is ENERGY STAR-qualified by the United States environmental protection agency;

(17) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo; and

(18) "WaterSense" means a program created by the federal environmental protection agency that certifies water-using products that meet the environmental protection agency's criteria for efficiency and performance."

Chapter 130 Section 2 Laws 2015

SECTION 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"NEW SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "new sustainable building tax credit". The new sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the new sustainable building tax credit provided in the Income Tax Act has been claimed.

B. The purpose of the new sustainable building tax credit is to encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

C. A taxpayer that files a corporate income tax return is eligible to be granted a new sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection K of this section with the taxpayer's corporate income tax return.

D. For taxable years ending on or before December 31, 2026, the new sustainable building tax credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

Qualified Tax Credit per
Occupied Square Foot
Square Footage

LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000	
	up to 500,000	\$.70
LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00

	Over 50,000	
	up to 500,000	\$1.00
First 10,000		\$6.25
	Next 40,000	\$3.25
	Over 50,000	
	up to 500,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000	
	up to 500,000	\$.50
LEED-EB or CS Gold	First 10,000	\$3.35
	Next 40,000	\$1.40
	Over 50,000	
	up to 500,000	\$.70
LEED-EB or CS		
Platinum	First 10,000	\$4.40
	Next 40,000	\$2.30
	Over 50,000	
	up to 500,000	\$1.40
LEED-CI Silver	First 10,000	\$1.40
	Next 40,000	\$.70
	Over 50,000	
	up to 500,000	\$.30

LEED-CI Gold First 10,000 \$1.90

Next 40,000 \$.80

Over 50,000

up to 500,000 \$.40

First 10,000 \$2.50

Next 40,000 \$1.30

Over 50,000

up to 500,000 \$.80.

E. For taxable years ending on or before December 31, 2026, the new sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

Qualified	Tax Credit
Occupied	per Square
Square Footage	Foot

Build Up to 2,000 \$3.00

Green NM Silver

LEED-H Gold or Build Up to 2,000 \$4.50

Green NM Gold

Build Up to 2,000 \$6.50

Green NM Emerald

Manufactured Housing Up to 2,000 \$3.00.

F. A person that is a building owner may apply for a certificate of eligibility for the new sustainable building tax credit from the energy, minerals and natural

resources department after the construction, installation or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection G of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of new sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2017, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

(1) the owner of the sustainable residential building at the time the certification level for the building is awarded; or

(2) the subsequent purchaser of a sustainable residential building with respect to which no tax credit has been previously claimed.

G. Except as provided in Subsection H of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of new sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Income Tax Act shall not exceed in any calendar year an aggregate amount of:

(1) one million two hundred fifty thousand dollars (\$1,250,000) with respect to sustainable commercial buildings;

(2) three million three hundred seventy-five thousand dollars (\$3,375,000) with respect to sustainable residential buildings that are not manufactured housing; and

(3) three hundred seventy-five thousand dollars (\$375,000) with respect to sustainable residential buildings that are manufactured housing.

H. For any taxable year that the energy, minerals and natural resources department determines that applications for sustainable building tax credits for any type of sustainable building pursuant to Paragraph (1), (2) or (3) of Subsection G of this section are less than the aggregate limit for that type of sustainable building for that taxable year, the energy, minerals and natural resources department shall allow the difference between the aggregate limit and the applications to be added to the

aggregate limit of another type of sustainable building for which applications exceeded the aggregate limit for that taxable year. Any excess not used in a taxable year shall not be carried forward to subsequent taxable years.

I. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be used as a component of qualification for the rating system certification level used in determining eligibility for the new sustainable building tax credit, unless a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the new sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

J. To be eligible for the new sustainable building tax credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection F of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit for which the building owner is eligible.

K. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a new sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the building owner with that taxpayer's income tax return, if applicable, or may be sold, exchanged or otherwise transferred to another taxpayer. 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.

L. If the approved amount of a new sustainable building tax credit for a taxpayer in a taxable year represented by a document issued pursuant to Subsection K of this section is:

(1) less than one hundred thousand dollars (\$100,000), a maximum of twenty-five thousand dollars (\$25,000) shall be applied against the taxpayer's corporate income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit;
or

(2) one hundred thousand dollars (\$100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's corporate income tax liability.

M. If the sum of all new sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of

Subsection L of this section, exceeds the taxpayer's corporate income tax liability for that taxable year, the excess may be carried forward for a period of up to seven years.

N. A taxpayer that otherwise qualifies and claims a new sustainable building tax credit with respect to a sustainable building 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 sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

O. The department shall compile an annual report on the new sustainable building tax credit created pursuant to this section 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. Beginning in 2019 and every three years thereafter that the credit is in effect, the department shall compile and present the annual reports 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.

P. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by build green New Mexico in November 2014, which include water conservation standards;

(2) "LEED-CI" means the LEED rating system for commercial interiors;

(3) "LEED-CS" means the LEED rating system for the core and shell of buildings;

(4) "LEED-EB" means the LEED rating system for existing buildings;

(5) "LEED gold" means the rating in compliance with, or exceeding, the second-highest rating awarded by the LEED certification process;

(6) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;

(7) "LEED-H" means the LEED rating system for homes;

(8) "LEED-NC" means the LEED rating system for new buildings and major renovations;

(9) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(10) "LEED silver" means the rating in compliance with, or exceeding, the third-highest rating awarded by the LEED certification process;

(11) "manufactured housing" means a multisectioned home that is:

(a) a manufactured home or modular home;

(b) a single-family dwelling with a heated area of at least thirty-six feet by twenty-four feet and a total area of at least eight hundred sixty-four square feet;

(c) constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or New Mexico construction codes up to the date of the unit's construction; and

(d) installed consistent with the Manufactured Housing Act and rules adopted pursuant to that act relating to permanent foundations;

(12) "qualified occupied square footage" means the occupied spaces of the building as determined by:

(a) the United States green building council for those buildings obtaining LEED certification;

(b) the administrators of the build green New Mexico rating system for those homes obtaining build green New Mexico certification; and

(c) the United States environmental protection agency for ENERGY STAR-certified manufactured homes;

(13) "person" does not include state, local government, public school district or tribal agencies;

(14) "sustainable building" means either a sustainable commercial building or a sustainable residential building;

(15) "sustainable commercial building" means a multifamily dwelling unit, as registered and certified under the LEED-H or build green New Mexico rating

system, that is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher and has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network or a building that has been registered and certified under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

(a) is certified by the United States green building council at LEED silver or higher;

(b) achieves any prerequisite for and at least one point related to commissioning under LEED "energy and atmosphere", if included in the applicable rating system; and

(c) has reduced energy consumption beginning January 1, 2012, by sixty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(16) "sustainable residential building" means:

(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating systems that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher; 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; 3) has indoor plumbing fixtures and water-using appliances that, on average, have flow rates equal to or lower than the flow rates required for certification by WaterSense; 4) if landscape area is available at the front of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; and 5) if landscape area is available at the rear of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; or

(b) manufactured housing that is ENERGY STAR-qualified by the United States environmental protection agency;

(17) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo; and

(18) "WaterSense" means a program created by the federal environmental protection agency that certifies water-using products that meet the environmental protection agency's criteria for efficiency and performance."

Chapter 130 Section 3 Laws 2015

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2017.

SFC/Senate Bill 279

Approved April 10, 2015

LAWS 2015, CHAPTER 131

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING AND REPEALING SECTIONS OF THE OPTOMETRY ACT TO MAKE CHANGES TO BOARD POWERS AND TO PROVIDE OPTOMETRISTS WITH GREATER PRESCRIBING POWERS; AMENDING A SECTION OF THE NEW MEXICO DRUG, DEVICE AND COSMETIC ACT TO INCLUDE OPTOMETRISTS AS PRESCRIBING PRACTITIONERS.

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

Chapter 131 Section 1 Laws 2015

SECTION 1. Section 61-2-2 NMSA 1978 (being Laws 1973, Chapter 353, Section 2, as amended) is amended to read:

"61-2-2. DEFINITIONS.--As used in the Optometry Act:

A. "practice of optometry" means:

(1) the employment of any subjective or objective means or methods, including but not limited to the use of lenses, prisms, autorefractors or other automated testing devices, and includes the prescription or administration of drugs for the purpose of diagnosing the visual defects or abnormal conditions of the human eye and its adnexa;

(2) the employing, adapting or prescribing of preventive or corrective measures, including but not limited to lenses, prisms, contact or corneal lenses or other optical appliances, ocular exercises, vision therapy, vision training and vision rehabilitation services, and includes the prescription or administration of all drugs rational for the correction, relief or referral of visual defects or abnormal conditions of the human eye and its adnexa; and

(3) does not include the use of surgery or injections in the treatment of eye diseases except for the use of the following types of in-office minor surgical procedures:

(a) non-laser removal, destruction or drainage of superficial eyelid lesions and conjunctival cysts;

(b) removal of nonpenetrating foreign bodies from the cornea, conjunctiva and eyelid;

(c) non-laser corneal debridement, culture, scrape or anterior puncture, not including removal of pterygium, corneal biopsy or removal of corneal neoplasias;

(d) removal of eyelashes; and

(e) probing, dilation, irrigation or closure of the tear drainage structures of the eyelid; scalpel use is to be applied only for the purpose of use on the skin surrounding the eye;

B. "ophthalmic lens" means a lens that has a spherical, cylindrical or prismatic value, is ground pursuant to a prescription and is intended to be used as eyeglasses;

C. "contact lens" means a lens to be worn on the anterior segment of the human eye;

D. "prescription" means a written order by an optometrist or a physician for an individual patient for:

(1) ophthalmic lenses;

(2) contact lenses; or

(3) a pharmaceutical agent that is regulated pursuant to the New Mexico Drug, Device and Cosmetic Act;

E. "eyeglasses" means an exterior optical device using ophthalmic lenses for the correction or relief of disturbances in and anomalies of human vision; and

F. "board" means the board of optometry."

Chapter 131 Section 2 Laws 2015

SECTION 2. Section 61-2-6 NMSA 1978 (being Laws 1973, Chapter 353, Section 5, as amended) is amended to read:

"61-2-6. ORGANIZATION--MEETINGS--COMPENSATION--POWERS AND DUTIES.--

A. The board shall annually elect a chair, a vice chair and a secretary-treasurer; each shall serve until a successor is elected and qualified.

B. The board shall meet at least annually for the purpose of examining candidates for licensure. Special meetings may be called by the chair and shall be called upon the written request of a majority of the board members. A majority of the board members currently serving constitutes a quorum.

C. Members of the board may be reimbursed as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance.

D. The board has the authority to determine what constitutes the practice of optometry in accordance with the provisions of the Optometry Act and has jurisdiction to exercise any other powers and duties pursuant to that act. The board may issue advisory opinions and declaratory rulings pursuant to that act and rules promulgated in accordance with that act, but shall not expand the scope of practice of optometry beyond the provisions of that act.

E. The board shall:

(1) administer and enforce the provisions of the Optometry Act;

(2) adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules for the implementation and enforcement of the provisions of the Optometry Act;

(3) adopt and use a seal;

(4) administer oaths and take testimony on matters within the board's jurisdiction;

(5) keep an accurate record of meetings, receipts and disbursements;

(6) keep a record of examinations held, together with the names and addresses of persons taking the examinations and the examination results. Within thirty days after an examination, the board shall give written notice to each applicant examined of the results of the examination as to the respective applicant;

(7) certify as passing each applicant who obtains a grade of at least seventy-five percent on each subject upon which the applicant is examined; providing that an applicant failing may apply for re-examination at the next scheduled examination date;

(8) keep a book of registration in which the name, address and license number of licensees shall be recorded, together with a record of license renewals, suspensions and revocations;

(9) grant, deny, renew, suspend or revoke licenses to practice optometry in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Optometry Act;

(10) develop and administer qualifications for certification for the use of pharmaceutical agents as authorized in Section 61-2-10.2 NMSA 1978, including minimum educational requirements and examination, as required by Section 61-2-10.2 NMSA 1978 and provide the board of pharmacy with an annual list of optometrists certified to use pharmaceutical agents as authorized in Section 61-2-10.2 NMSA 1978; and

(11) provide for the suspension of an optometrist's license for sixty days upon a determination of use of pharmaceutical agents without prior certification in accordance with Section 61-2-10.2 NMSA 1978, after proper notice and an opportunity to be heard before the board."

Chapter 131 Section 3 Laws 2015

SECTION 3. Section 61-2-10.2 NMSA 1978 (being Laws 1995, Chapter 20, Section 5, as amended) is amended to read:

"61-2-10.2. DESIGNATION OF PHARMACEUTICAL AGENTS--CERTIFICATION FOR USE OF CERTAIN AGENTS.--

A. Subject to the provisions of the Optometry Act, optometrists qualified and certified by the board may prescribe or administer all pharmaceutical agents for the diagnosis and treatment of disease of the eye or adnexa; provided that an optometrist:

(1) may prescribe hydrocodone and hydrocodone combination medications;

(2) may administer epinephrine auto-injections to counter anaphylaxis; and

(3) shall not prescribe any other controlled substance classified in Schedule I or II pursuant to the Controlled Substances Act.

B. The board shall issue certification for the use of pharmaceutical agents as set forth in Subsection A of this section to optometrists currently licensed by the board. To be certified, an optometrist shall submit to the board proof of having satisfactorily completed a course in pharmacology as applied to optometry, with particular emphasis on the administration of pharmaceutical agents for the purpose of

examination of the human eye, and analysis of ocular functions and treatment of visual defects or abnormal conditions of the human eye and its adnexa. The course shall constitute a minimum of twenty hours of instruction in clinical pharmacology, including systemic pharmacology as applied to optometry, and shall be taught by an accredited institution approved by the board.

C. Applicants for licensure shall meet the requirements for certification in the use of pharmaceutical agents as set forth in the Optometry Act and shall successfully complete the board's examination in pharmaceutical agents prior to licensure.

D. The certification authorized by this section shall be displayed in a conspicuous place in the optometrist's principal office or place of business."

Chapter 131 Section 4 Laws 2015

SECTION 4. Section 61-2-10.3 NMSA 1978 (being Laws 2003, Chapter 274, Section 8) is amended to read:

"61-2-10.3. PRESCRIPTION FOR PHARMACEUTICAL AGENT OR OPHTHALMIC LENSES--REQUIRED ELEMENTS--AUTHORITY OF A PERSON WHO SELLS AND DISPENSES EYEGLASSES.--

A. A prescription written for a pharmaceutical agent shall include an order given individually for the person for whom prescribed, either directly from the prescriber to a pharmacist or indirectly by means of a written or electronic 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 agent prescribed and directions for its use and the date of issue.

B. A prescription written for ophthalmic lenses shall include:

(1) the dioptric power of spheres, cylinders and prisms, the axes of cylinders, the position of the prism base and, if so desired by the prescriber, the light transmission properties and lens curve values;

(2) the designation of pupillary distance; and

(3) the name of the patient, the date of the prescription, the expiration date of the prescription and the name and address of the prescriber.

C. A person who sells and dispenses eyeglasses upon the written prescription of a physician, surgeon or optometrist may determine:

(1) the type, form, size and shape of ophthalmic lenses;

(2) the placement of optical centers for distance-seeing and near-work;

(3) the designation of type and placement of reading segments in multivision lenses;

(4) the type and quality of frame or mounting, the type of bridge and the distance between lenses and the type, length and angling of temples; and

(5) the designation of pupillary distance."

Chapter 131 Section 5 Laws 2015

SECTION 5. Section 61-2-14 NMSA 1978 (being Laws 1973, Chapter 353, Section 12, as amended) is amended to read:

"61-2-14. OFFENSES.--

A. A person who commits one of the following acts is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978:

(1) practicing or attempting to practice optometry without a valid current license issued by the board;

(2) using or attempting to use a pharmaceutical agent that is regulated pursuant to the provisions of the New Mexico Drug, Device and Cosmetic Act without having the certification for its use issued by the board, unless the administration of pharmaceutical agents is done under the direct supervision of a licensed optometrist certified to administer the pharmaceutical agents in accordance with the provisions of the Optometry Act; or

(3) permitting a person in one's employ, supervision or control to practice optometry or use pharmaceutical agents described in Paragraph (2) of this subsection unless that person is licensed and certified in accordance with the provisions of the Optometry Act or unless the administration of pharmaceutical agents is done under the direct supervision of a licensed optometrist certified to administer the pharmaceutical agents in accordance with the provisions of the Optometry Act.

B. A person who commits one of the following acts is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978:

(1) making a willfully false oath or affirmation where the oath or affirmation is required by the Optometry Act;

(2) selling or using any designation, diploma or certificate tending to imply that one is a practitioner of optometry, unless one holds a license as provided by the Optometry Act;

(3) refusing, after a request, to provide a patient a copy of the patient's eyeglasses prescription, if the prescription is not over one year old;

(4) duplicating or replacing an ophthalmic lens without a current prescription not more than two years old or without a written authorization from the patient if the prescription is not available;

(5) except for licensed optometrists, using any trial lenses, trial frames, graduated test cards or other appliances or instruments for the purpose of examining the eyes or rendering assistance to anyone who desires to have an examination of the eyes, but it is not the intent of this paragraph to prevent a school nurse, schoolteacher or employee in public service from ascertaining the possible need of vision services, if the person, clinic or program does not attempt to diagnose or prescribe ophthalmic lenses for the eyes or recommend any particular practitioner or system of practice;

(6) advertising the fabricating, adapting, employing, providing, sale or duplication of eyeglasses or any part of them, but this paragraph does not preclude the use of a business name, trade name or trademark not relating to price or the use of the address, telephone number, office hours and designation of the provider, in or at retail outlets, on business cards, eyeglass cleaners and cases or in news media or in public directories, mailings and announcements of location openings or the use of the words "doctors' prescriptions for eyeglasses filled" or "eyeglass repairs, replacements and adjustments"; or

(7) selling of prescription eyeglasses or contact lenses, frames or mountings for lenses in an establishment in which the majority of its income is not derived from being engaged in that endeavor."

Chapter 131 Section 6 Laws 2015

SECTION 6. Section 26-1-2 NMSA 1978 (being Laws 1967, Chapter 23, Section 2, as amended) is amended to read:

"26-1-2. DEFINITIONS.--As used in the New Mexico Drug, Device and Cosmetic Act:

A. "board" means the board of pharmacy or its duly authorized agent;

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

C. "biological product" means a virus, therapeutic serum, toxin, antitoxin or analogous product applicable to the prevention, treatment or cure of diseases or injuries of humans and domestic animals, and, as used within the meaning of this definition:

(1) a "virus" is interpreted to be a product containing the minute living cause of an infectious disease and includes filterable viruses, bacteria, rickettsia, fungi and protozoa;

(2) a "therapeutic serum" is a product obtained from blood by removing the clot or clot components and the blood cells;

(3) a "toxin" is a product containing a soluble substance poisonous to laboratory animals or humans in doses of one milliliter or less of the product and, following the injection of nonfatal doses into an animal, having the property of or causing to be produced therein another soluble substance that specifically neutralizes the poisonous substance and that is demonstrable in the serum of the animal thus immunized; and

(4) an "antitoxin" is a product containing the soluble substance in serum or other body fluid of an immunized animal that specifically neutralizes the toxin against which the animal is immune;

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

E. "drug" means articles:

(1) recognized in an official compendium;

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

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

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

F. "dangerous drug" means a drug, other than a controlled substance enumerated in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its use or the collateral measures

necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such drug and hence for which adequate directions for use cannot be prepared. "Adequate directions for use" means directions under which the layperson can use a drug or device safely and for the purposes for which it is intended. A drug shall be dispensed only upon the prescription or drug order of a practitioner licensed by law to administer or prescribe the drug if it:

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

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

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

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

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

(6) bears the legend "RX only";

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

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

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

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

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

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

(1) recognized in an official compendium;

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

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

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

J. "practitioner" means a certified advanced practice chiropractic physician, physician, doctor of oriental medicine, dentist, veterinarian, euthanasia technician, certified nurse practitioner, clinical nurse specialist, pharmacist, pharmacist clinician, certified nurse-midwife, physician assistant, prescribing psychologist, dental hygienist, optometrist or other person licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act;

K. "cosmetic" means:

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

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

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

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

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

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

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

(2) accompanying an article;

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

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

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

S. "new drug" means a drug:

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

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

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

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

V. "color additive" means a material that:

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

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

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

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

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

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

AA. "pedigree" means the recorded history of a drug; and

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

Chapter 131 Section 7 Laws 2015

SECTION 7. REPEAL.--Section 61-2-10 NMSA 1978 (being Laws 1977, Chapter 30, Section 3, as amended) is repealed.

Senate Bill 367, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 132

AN ACT

RELATING TO CHILDREN; ENACTING THE CARLOS VIGIL MEMORIAL ACT; CREATING THE CARLOS VIGIL MEMORIAL BOARD TO AWARD GRANTS TO PROGRAMS AND SERVICES TO ERADICATE BULLYING STATEWIDE; CREATING THE ERADICATE BULLYING FUND; MAKING AN APPROPRIATION.

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

Chapter 132 Section 1 Laws 2015

SECTION 1. SHORT TITLE.--This act may be cited as the "Carlos Vigil Memorial Act" in honor of Carlos Vigil.

Chapter 132 Section 2 Laws 2015

SECTION 2. PURPOSES.--The purposes of the Carlos Vigil Memorial Act are to:

A. cultivate a statewide culture where bullying is not accepted;

B. educate New Mexicans about recognizing bullying behaviors and understanding the potential consequences of bullying; and

C. provide grants for providers of services and programs for the prevention, resolution and eradication of bullying statewide.

Chapter 132 Section 3 Laws 2015

SECTION 3. CARLOS VIGIL MEMORIAL BOARD--CREATED.--

A. The "Carlos Vigil memorial board" is created to review grant applications and to award grants from the eradicate bullying fund.

B. The board consists of five voting members who together provide diverse experience and expertise in:

(1) administering or delivering services in an organization focused on preventing bullying or suicide;

(2) administering or delivering services in an organization focused on providing counseling and support services to victims and perpetrators of bullying;

(3) professional development workshops on the topic of bullying or suicide prevention;

(4) coalescing and leading communities; or

(5) administering or delivering public health services.

C. Board appointments shall be as follows:

(1) one member shall be appointed by the president pro tempore of the senate;

(2) one member shall be appointed by the minority floor leader of the senate;

(3) one member shall be appointed by the speaker of the house of representatives;

(4) one member shall be appointed by the minority floor leader of the house of representatives; and

(5) one member shall be appointed by the governor from department of health staff.

D. The chair of the board shall be elected by a quorum of the board members. The board shall meet at the call of the chair or whenever two members submit a request in writing to the chair, but not less often than once each calendar year. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of a majority of a quorum present shall be necessary for an action to be taken by the board.

E. Members of the board shall be appointed to two-year terms. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term. Any member of the board shall be eligible for reappointment.

F. Public members of the board may be paid per diem and mileage as provided for nonsalaried officers in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance.

Chapter 132 Section 4 Laws 2015

SECTION 4. CARLOS VIGIL MEMORIAL BOARD--DUTIES.--The Carlos Vigil memorial board shall:

A. adopt and promulgate rules governing the acceptance, evaluation and prioritization of applications for grants, including applicant qualifications and the format, procedure and deadlines for grant applications;

B. review grant applications from public agencies and institutions and nonprofit private entities that indicate the qualifications and expertise to provide services for the prevention, resolution and eradication of bullying;

C. process, evaluate and prioritize applications based on the criteria delineated in the board's rules; and

D. award grants to the most qualified grant applicants and reach a broad spectrum of New Mexicans.

Chapter 132 Section 5 Laws 2015

SECTION 5. ERADICATE BULLYING FUND CREATED--GRANT APPLICATION REVIEW.--

A. The "eradicate bullying fund" is created in the state treasury. The fund shall be administered by the board of regents of the university of New Mexico. Money in the fund is appropriated to the board of regents of the university of New Mexico for disbursement to grant recipients selected by the Carlos Vigil memorial board.

B. The fund shall consist of:

(1) money appropriated by the legislature to carry out the purposes of the Carlos Vigil Memorial Act;

(2) grants, gifts, donations and bequests to the fund; and

(3) earnings from investment of the money in the fund.

C. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the president of the board of regents of the university of New Mexico or the president's designee.

D. Unexpended and unencumbered balances in the fund shall not revert to the general fund at the end of a fiscal year.

E. An applicant may apply for a grant from the fund in accordance with rules promulgated by the Carlos Vigil memorial board. Allocations from the fund shall be based on a competitive process with applications reviewed by the board.

Senate Bill 381

Approved April 10, 2015

LAWS 2015, CHAPTER 133

AN ACT

RELATING TO OIL AND GAS; ENACTING A NEW SECTION OF THE OIL AND GAS ACT TO CREATE REQUIREMENTS FOR ADOPTING AND APPEALING RULES.

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

Chapter 133 Section 1 Laws 2015

SECTION 1. A new section of the Oil and Gas Act is enacted to read:

"ADOPTION OF RULES--APPEALS.--

A. No rule shall be adopted pursuant to the Oil and Gas Act until after a hearing by the commission.

B. Any rule adopted under the Oil and Gas Act shall be filed and published in accordance with the State Rules Act. No rule shall be filed until the latter of twenty days after the commission has entered an order or has refused a rehearing application pursuant to Section 70-2-25 NMSA 1978.

C. Any party of record to the proceeding before the commission or any person adversely affected by a rule adopted under the Oil and Gas Act may appeal to the court of appeals within thirty days after filing of the rule under the State Rules Act. All such appeals shall be upon the record made by the commission. Upon appeal, the court of appeals shall set aside the rule only if 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 law.

D. As used in this section, "rule" includes an amendment or repeal of a rule."

Senate Bill 389, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 134

AN ACT

RELATING TO LIVESTOCK; AMENDING A SECTION IN THE LIVESTOCK CODE THAT PROVIDES FOR RUNNING AT LARGE OF LIVESTOCK.

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

Chapter 134 Section 1 Laws 2015

SECTION 1. Section 77-14-6 NMSA 1978 (being Laws 1909, Chapter 146, Section 3, as amended) is amended to read:

"77-14-6. ANIMALS RUNNING AT LARGE--ORDER PROHIBITING-- PUBLICATION.--Upon receipt of a petition pursuant to Section 77-14-5 NMSA 1978, the board of county commissioners may make an order prohibiting the running at large of livestock within the limits of the platted townsite and platted addition or within the limits of the conservancy or irrigation districts or within the limits of the military reservation or enclave, as the case may be, and shall cause the order to be published once each week for four consecutive weeks in some newspaper published in the county where the petition has been filed."

Senate Bill 398, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 135

AN ACT

RELATING TO ESCROW COMPANIES; AMENDING THE ESCROW COMPANY ACT; CHANGING THE REQUIREMENT FOR BONDS; REQUIRING AUDIT REPORTS, ACCOUNT STATEMENTS AND RECONCILIATIONS; PROVIDING FOR AN EXCEPTION TO THE INSPECTION OF PUBLIC RECORDS ACT.

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

Chapter 135 Section 1 Laws 2015

SECTION 1. Section 58-22-1 NMSA 1978 (being Laws 1983, Chapter 135, Section 1) is amended to read:

"58-22-1. SHORT TITLE.--Chapter 58, Article 22 NMSA 1978 may be cited as the "Escrow Company Act"."

Chapter 135 Section 2 Laws 2015

SECTION 2. Section 58-22-3 NMSA 1978 (being Laws 1983, Chapter 135, Section 3) is amended to read:

"58-22-3. DEFINITIONS.--As used in the Escrow Company Act:

A. "director" means the director of the division;

B. "division" means the financial institutions division of the regulation and licensing department;

C. "escrow" means any transaction in which one person, for the purpose of effecting the sale, transfer, encumbrance or lease of real or personal property to another person or for the purpose of making payments under any encumbrance of the property, delivers any written instrument, money, evidence of title to real or personal property or other thing of value to a third person to be held by that third person until the happening of a specified event or the performance of a prescribed condition, when the instrument, money, evidence of title or thing of value is to be delivered by the third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee or bailor or to any of that person's agents or employees, pursuant to the written escrow instructions;

D. "escrow company" means any person engaged in the business of receiving escrows for deposit or delivery for compensation who is required to be licensed under the Escrow Company Act;

E. "licensee" means a person holding a valid license as an escrow agent;
and

F. "person" means an individual, cooperative, association, company, firm, partnership, corporation or other legal entity."

Chapter 135 Section 3 Laws 2015

SECTION 3. Section 58-22-9 NMSA 1978 (being Laws 1983, Chapter 135, Section 9) is amended to read:

"58-22-9. ANNUAL RENEWAL OF LICENSE.--

A. A licensee shall renew its license for each of its offices annually by filing an application for renewal with the director on or before June 1 of each year, accompanied by the appropriate fees. The application for renewal shall be on a form and shall contain such information as the director by rule shall prescribe, which information shall establish that the licensee has continued to maintain necessary qualifications as an escrow agent. If the application for renewal is timely and properly filed and the necessary qualifications are being maintained, the renewal of the license shall be effective on July 1 following the filing of the application and shall be evidenced by an appropriate license issued as of that date.

B. A licensee shall submit with the renewal application:

(1) a copy of the escrow company's corporate federal and state income tax returns or, if the licensee is a sole proprietor, a copy of the escrow company's federal Schedule C as it relates to the escrow company for the immediate prior fiscal year or the year ending December 31 of the year immediately preceding the licensing year. The information contained in the federal and state income tax returns shall be confidential and shall not be a public record; and

(2) as required by accounting control rules promulgated by the division, a copy of reconciliations and corresponding bank statements for the three months immediately preceding the renewal application."

Chapter 135 Section 4 Laws 2015

SECTION 4. Section 58-22-10 NMSA 1978 (being Laws 1983, Chapter 135, Section 10, as amended) is amended to read:

"58-22-10. SURETY BOND REQUIRED.--An escrow company shall obtain a surety bond in the minimum amount of one hundred thousand dollars (\$100,000) running to the people of the state of New Mexico, which bond shall be executed and acknowledged by a corporation that is licensed by the superintendent of insurance to transact the business of fidelity and surety insurance. The bonds shall be in a form acceptable to the director and shall be filed in the director's office."

Chapter 135 Section 5 Laws 2015

SECTION 5. Section 58-22-15 NMSA 1978 (being Laws 1983, Chapter 135, Section 15, as amended) is amended to read:

"58-22-15. GROUNDS FOR DENYING A LICENSE.--The director may deny an escrow company's application for initial licensing or renewal if:

A. the applicant has ever had an escrow company license revoked for cause;

B. the applicant was a partner, owner, officer, director, trustee, manager or principal stockholder of any partnership, corporation or unincorporated association whose escrow company license has been revoked for cause;

C. the applicant has any owner, officer, director or principal stockholder who has had an escrow company license revoked for cause;

D. the director has knowledge that the applicant or a partner, owner, officer, director, trustee or principal stockholder of the applicant has been convicted of fraud, embezzlement or any crime involving moral turpitude pursuant to the laws of New Mexico or has been adjudged disqualified for employment as an escrow company pursuant to the provisions of the Escrow Company Act. For the purpose of this subsection, the division shall be considered a law enforcement agency and the director may acquire arrest record information from another law enforcement agency pursuant to Section 29-10-5 NMSA 1978;

E. there is no officer or manager possessing necessary escrow experience to be stationed in the proposed business location;

F. any false statement of a material fact has been made in application for licensure; or

G. the applicant or any officer, owner, partner, director or incorporator of the applicant has violated any provision of the Escrow Company Act or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction."

Chapter 135 Section 6 Laws 2015

SECTION 6. Section 58-22-18 NMSA 1978 (being Laws 1983, Chapter 135, Section 18) is amended to read:

"58-22-18. STATEMENT OF ACCOUNT.--

A. Within fourteen days of a written request made by a party to the escrow agreement, a licensee shall provide a full statement of the escrow account, setting forth credits to principal and interest for the period and other information requested.

B. Within the ten-day period following a buyer depositing the final payment on an account, the licensee shall send a notice to the seller and the buyer of property, containing a final statement of account, which statement shall disclose at a minimum the following information:

(1) the names of the seller and the buyer on the account;

(2) the address or legal description of real property or a definitive description of the property if it is not real property;

(3) a statement that the account was paid in full;

(4) the amount of the final payment;

(5) the date that the final payment was deposited with the licensee;
and

(6) the date that the final payment was or is expected to be disbursed by the licensee. Money shall be disbursed within five days of the money becoming available to the licensee.

C. A copy of the notice required by this section shall be retained by the licensee and shall be available for examination by the director pursuant to Section 58-22-17 NMSA 1978."

Chapter 135 Section 7 Laws 2015

SECTION 7. Section 58-22-19 NMSA 1978 (being Laws 1983, Chapter 135, Section 19) is amended to read:

"58-22-19. DIVISION DOCUMENTS EXCEPTION TO INSPECTION OF PUBLIC RECORDS ACT.--Division examination reports, financial information contained in licensee applications and renewal applications and information on investigations relating to violations of the Escrow Company Act that do not result or have not yet resulted in administrative, civil or criminal action:

A. are not public records subject to the Inspection of Public Records Act;

B. may be disclosed only with the consent of the director; and

C. are not subject to subpoena."

Chapter 135 Section 8 Laws 2015

SECTION 8. Section 58-22-30 NMSA 1978 (being Laws 1983, Chapter 135, Section 30) is amended to read:

"58-22-30. EXEMPTION FROM AUTHORITY OF SUPERINTENDENT OF REGULATION AND LICENSING.--The responsibilities and authority of the director under the Escrow Company Act are hereby explicitly exempted from the authority of the superintendent of regulation and licensing as set forth in Subsection B of Section 9-16-6 NMSA 1978."

Chapter 135 Section 9 Laws 2015

SECTION 9. TEMPORARY PROVISION--SURETY BONDS.--An escrow company licensed pursuant to the Escrow Company Act that, prior to the effective date of this act, was not required to file a surety or other bond with the director of the financial institutions division of the regulation and licensing department shall have until January 1, 2016 to comply with the provisions of Section 58-22-10 NMSA 1978.

Chapter 135 Section 10 Laws 2015

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 412, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 136

AN ACT

RELATING TO RELOCATION PAYMENTS; INCREASING THE AMOUNTS AUTHORIZED FOR PAYMENT TO A PERSON OR BUSINESS DISPLACED BY AN AGENCY PROGRAM OR PROJECT; AMENDING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Chapter 136 Section 1 Laws 2015

SECTION 1. Section 42-3-5 NMSA 1978 (being Laws 1972, Chapter 41, Section 6, as amended) is amended to read:

"42-3-5. RELOCATION PAYMENTS.--

A. Whenever a program or project undertaken by an agency will result in the displacement of a person, the displacing agency shall provide for payment to the displaced person for:

(1) actual reasonable expenses in moving the person or the person's family, business, farm operation or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the displacing agency;

(3) actual reasonable expenses in searching for a replacement business or farm, supported by documentation that the displacing agency by regulation may require; and

(4) actual reasonable expenses necessary to reestablish a displaced farm or business at its new site, in accordance with criteria to be established by the displacing agency but not to exceed twenty-five thousand dollars (\$25,000).

B. A displaced person eligible for payments under Subsection A of this section who is displaced from a dwelling and who elects to accept the payment authorized by this subsection in lieu of the payments authorized by Subsection A of this section may receive an expense and dislocation allowance that shall be determined according to a schedule established by the displacing agency.

C. A displaced person eligible for payments under Subsection A of this section who is displaced from the person's place of business or from the person's farm operation and who is eligible under the criteria established by the displacing agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by Subsection A of this section. The payment shall consist of a fixed payment in an amount to be determined according to the criteria established by the displacing agency, except that the payment shall be not less than one thousand dollars (\$1,000) nor more than forty thousand dollars (\$40,000). A person whose sole business at the displacement dwelling is the rental of the dwelling to others shall not qualify for a payment under this subsection."

Chapter 136 Section 2 Laws 2015

SECTION 2. Section 42-3-6 NMSA 1978 (being Laws 1972, Chapter 41, Section 7, as amended) is amended to read:

"42-3-6. ADDITIONAL PAYMENT TO PROPERTY OWNER.--

A. In addition to payments authorized by Section 42-3-5 NMSA 1978, the displacing agency, as a part of the cost of the program or project, may make an additional payment not to exceed thirty-one thousand dollars (\$31,000) to a displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of the property. The additional payment shall include the following:

(1) the amount that when added to the acquisition cost to the displacing agency of the dwelling acquired by the displacing agency equals the reasonable cost of a comparable replacement dwelling;

(2) the amount that will compensate the displaced person for any increased interest cost and other debt service costs that the displaced person is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage that was a valid lien on the dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of the dwelling. The amount of the increased costs shall be equal to the excess in the aggregate interest and other debt service costs of the amount of the principal of the mortgage on the replacement dwelling that is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located; and

(3) reasonable expenses incurred by the displaced person for evidence of title, recording fees and other closing costs incident to the purchase of a comparable replacement dwelling, but not including prepaid expenses.

B. The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a comparable replacement dwelling not later than the end of the one-year period beginning on the date on which the displaced person receives from the displacing agency final payment of all costs of the acquired dwelling or on the date on which the displacing agency's obligations, pursuant to Paragraph (3) of Subsection C of Section 42-3-11 NMSA 1978, are fulfilled, whichever is the later date. The displacing agency may extend this one-year period for good cause. If this one-year period is extended, the payment under this section shall be based on the costs of relocating the displaced person to a comparable replacement dwelling within one year of such date."

Chapter 136 Section 3 Laws 2015

SECTION 3. Section 42-3-7 NMSA 1978 (being Laws 1989, Chapter 121, Section 7) is amended to read:

"42-3-7. ADDITIONAL PAYMENT TO TENANT.--

A. In addition to amounts otherwise authorized by the Relocation Assistance Act, the displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under Section 42-3-6 NMSA 1978 when that dwelling was actually and lawfully occupied by the displaced person for not less than ninety days immediately prior to the initiation of negotiations for acquisition of the dwelling or in any case in which the displacement is a direct result of acquisition or other event as the displacing agency shall prescribe.

B. The payment in Subsection A of this section shall consist of the amount necessary to enable the displaced person to lease or rent for a period not to exceed forty-two months a comparable replacement dwelling, but at no time shall this payment exceed seven thousand two hundred dollars (\$7,200). At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account that person's income.

C. Any person eligible for a payment under Subsection A of this section may elect to apply the payment to a down payment on, and other incidental expenses pursuant to, the purchase of a comparable replacement dwelling. That person may, at the discretion of the displacing agency, be eligible under this subsection for the maximum payment allowed under Subsection B of this section, except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least ninety days immediately prior to the initiation of negotiations for the acquisition of the dwelling, this payment shall not exceed the payment the person would otherwise have received under Subsection A of Section 42-3-6 NMSA 1978 had the person owned and occupied the displacement dwelling ninety days immediately prior to the initiation of such negotiations."

Chapter 136 Section 4 Laws 2015

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

Senate Bill 453, w/ec

Approved April 10, 2015

LAWS 2015, CHAPTER 137

AN ACT

RELATING TO JAILS; ALLOWING FOR LONGER CONTRACT TERM EXTENSIONS FOR JAIL CONTRACTORS.

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

Chapter 137 Section 1 Laws 2015

SECTION 1. Section 33-3-27 NMSA 1978 (being Laws 1984, Chapter 22, Section 18, as amended) is amended to read:

"33-3-27. JAIL AGREEMENTS--APPROVAL--LIABILITY--TERMINATION--VENUE.--

A. Agreements with a private independent contractor for the operation of a jail or for the incarceration of prisoners shall be made for a period of up to five years, but those agreements may allow for additional one-year, two-year or three-year extensions not to exceed a total of six extensions. Agreements binding on future governing bodies for construction, purchase or lease of a jail facility for not more than fifteen years are authorized.

B. All agreements with private independent contractors for the operation or provision and operation of jails shall include a performance bond and be approved in writing, prior to their becoming effective, by the local government division of the department of finance and administration and the office of the attorney general. Disapproval may be based on any reasonable grounds, including adequacy or appropriateness of the proposed plan or standards; suitability or qualifications of the proposed contractor or the contractor's employees; absence of required or desirable contract provisions; unavailability of funds; or any other reasonable grounds. No agreement shall be valid or enforceable without prior approval.

C. All agreements with private independent contractors for the operation or provision and operation of jails shall provide for the independent contractor to provide and pay for training for jailers to meet minimum training standards, which shall be specified in the contract.

D. All agreements with private independent contractors for the operation or provision and operation of jails shall set forth comprehensive standards for conditions of incarceration, either by setting them forth in full as part of the contract or by reference to known and respected compilations of those standards.

E. All agreements with private independent contractors for the operation or provision and operation of jails shall be approved in writing, prior to their becoming effective, by the risk management division of the general services department. Approval

shall be conditioned upon contractual arrangements satisfactory to the risk management division for:

(1) the contractor's assumption of all liability caused by or arising out of all aspects of the provision and operation of the jail; and

(2) liability insurance covering the contractor and its officers, jailers, employees and agents in an amount sufficient to cover all liability caused by or arising out of all aspects of the provision and operation of the jail. A copy of the proposed insurance policy for the first year shall be submitted for approval with the contract.

F. All agreements with private independent contractors for the operation or provision and operation of jails shall provide for termination for cause by the local public body parties upon ninety days' notice to the independent contractor. A termination shall be allowed for at least the following reasons:

(1) failure of the independent contractor to meet minimum standards and conditions of incarceration, which standards and conditions shall be specified in the contract; or

(2) failure to meet other contract provisions when the failure seriously affects the operation of the jail.

The reasons for termination set forth in this subsection are not exclusive and may be supplemented by the parties.

G. Venue for the enforcement of any agreement entered into pursuant to the provisions of this section shall be in the district court of the county in which the facility is located or in Santa Fe county."

Senate Bill 459, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 138

AN ACT

RELATING TO PROCUREMENT; ADDING THE REQUIREMENT THAT THE STATE PURCHASING AGENT DEVELOP STANDARDIZED CLASSIFICATION CODES FOR EXPENDITURES.

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

Chapter 138 Section 1 Laws 2015

SECTION 1. Section 13-1-95 NMSA 1978 (being Laws 1984, Chapter 65, Section 68, as amended) is amended to read:

"13-1-95. PURCHASING DIVISION--CREATION--DIRECTOR IS STATE PURCHASING AGENT--APPOINTMENT--DUTIES.--

A. The "purchasing division" is created within the general services department.

B. Subject to the authority of the secretary, the state purchasing agent shall be the administrator and director of the purchasing division. The state purchasing agent shall be appointed by the secretary with the approval of the governor.

C. The purchasing division and state purchasing agent shall be responsible for the procurement of services, construction and items of tangible personal property for all state agencies except as otherwise provided in the Procurement Code and shall administer the Procurement Code for those state agencies not excluded from the requirement of procurement through the state purchasing agent.

D. The state purchasing agent shall have the following additional authority and responsibility to:

(1) recommend procurement rules to the secretary;

(2) establish and maintain programs for the development and use of procurement specifications and for the inspection, testing and acceptance of services, construction and items of tangible personal property;

(3) cooperate with the state budget division of the department of finance and administration in the preparation of statistical data concerning the acquisition and usage of all services, construction and items of tangible personal property by state agencies;

(4) require state agencies to furnish reports concerning usage, needs and stocks on hand of items of tangible personal property and usage and needs for services or construction;

(5) prescribe, with consent of the secretary, forms to be used by state agencies to requisition and report the procurement of items of tangible personal property, services and construction;

(6) provide information to state agencies and local public bodies concerning the development of specifications, quality control methods and other procurement information;

(7) collect information concerning procurement matters, quality and quality control of commonly used services, construction and items of tangible personal property; and

(8) develop standardized classification codes for each expenditure by state agencies and local public bodies.

E. The state purchasing agent shall, upon the request of the central purchasing office of a local public body, procure a price agreement for the requested services, construction or items of tangible personal property. The state purchasing agent may procure a price agreement for services, construction or items of tangible personal property for a state agency or local public body that does not have a chief procurement officer."

Chapter 138 Section 2 Laws 2015

SECTION 2. A new section of the Procurement Code is enacted to read:

"STANDARDIZED CLASSIFICATION CODES--APPLICABILITY.--Each state agency and local public body shall use the standardized classification codes developed by the state purchasing agent."

Chapter 138 Section 3 Laws 2015

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of Section 2 of this act is July 1, 2016.

Senate Bill 480, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 139

AN ACT

RELATING TO PROCUREMENT; PERMITTING A DESIGNEE OF THE DIRECTOR OF THE FACILITIES MANAGEMENT DIVISION OF THE GENERAL SERVICES DEPARTMENT TO SERVE ON AN ARCHITECT, ENGINEER, LANDSCAPE ARCHITECT AND SURVEYOR SELECTION COMMITTEE AND REQUIRING SERVICE WITHOUT SUBSTITUTION.

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

Chapter 139 Section 1 Laws 2015

SECTION 1. Section 13-1-121 NMSA 1978 (being Laws 1984, Chapter 65, Section 94, as amended) is amended to read:

"13-1-121. COMPETITIVE SEALED QUALIFICATIONS-BASED PROPOSALS--
ARCHITECTS--ENGINEERS--LANDSCAPE ARCHITECTS--
SURVEYORS--SELECTION COMMITTEE--STATE PUBLIC WORKS PROJECTS.--

A. For each state public works project, an "architect, engineer, landscape architect and surveyor selection committee" shall be formed with four members as follows:

(1) one member of the agency for which the project is being designed;

(2) the director of the facilities management division of the general services department, or the director's designee, who shall be chair;

(3) one member designated by the joint practice committee; and

(4) one member designated by the secretary.

B. Once an architect, engineer, landscape architect and surveyor selection committee is formed, no member shall be substituted or permitted to serve through a proxy for the duration of the selection process for a state public works project.

C. The staff architect or the staff architect's designee of the facilities management division shall serve as staff to the architect, engineer, landscape architect and surveyor selection committee.

D. The members of the architect, engineer, landscape architect and surveyor selection committee shall be reimbursed by the facilities management division for per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

E. Notwithstanding the provisions of this section, an architect, engineer, landscape architect and surveyor selection committee shall not be formed for department of transportation highway projects. The department of transportation shall create its own selection committee by rule, after notice and hearing, for department of transportation highway projects."

Approved April 10, 2015

LAWS 2015, CHAPTER 140

AN ACT

RELATING TO HORSE RACING; REQUIRING THE TESTING FOR DRUGS AND OTHER FOREIGN SUBSTANCES IN RACEHORSES TO FOLLOW OR EXCEED STANDARDS IN INTERNATIONALLY RECOGNIZED MODEL RULES; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2013, CHAPTER 102, SECTION 2.

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

Chapter 140 Section 1 Laws 2015

SECTION 1. Section 60-1A-14 NMSA 1978 (being Laws 2007, Chapter 39, Section 14, as amended by Laws 2013, Chapter 102, Section 2 and by Laws 2013, Chapter 103, Section 3) is amended to read:

"60-1A-14. TESTING SPECIMENS.--

A. The commission shall adopt rules applying to the handling of pre- and post-race, out-of-competition and necropsy testing of blood serum plasma, urine or other appropriate test samples identified by the commission to be taken from racehorses, following guidelines that meet or exceed the standards established in model rules published by the association of racing commissioners international, incorporated, or a successor organization or, if none, by another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry as determined by the commission.

B. Each specimen taken from a racehorse shall be divided into two or more equal samples, and:

(1) one sample shall be tested by the commission or its designated laboratory in order to detect the presence of unauthorized drugs, chemicals, stimulants, depressants or other performance-altering substance as defined by the association of racing commissioners international, incorporated, or a successor organization or, if none, by another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry as determined by the commission; and

(2) the second sample shall be forwarded by the commission to the scientific laboratory division of the department of health.

C. After a positive test result on the sample tested by the commission or its designated laboratory and upon a written request from the president, executive director or manager of the New Mexico horsemen's association on forms designated by the commission, the scientific laboratory division shall transmit the corresponding second sample to the New Mexico horsemen's association.

D. The scientific laboratory division shall keep all samples in a controlled environment for a period of at least three months.

E. The commission shall contract with an independent laboratory to maintain a quality assurance program. The laboratory shall meet or exceed the current national laboratory standards for the testing of drugs or other foreign substances in a horse, as established by the association of racing commissioners international, incorporated, or of a successor organization or, if none, of another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry."

Chapter 140 Section 2 Laws 2015

SECTION 2. Section 60-1A-14.1 NMSA 1978 (being Laws 2013, Chapter 102, Section 1) is amended to read:

"60-1A-14.1. RACEHORSE TESTING FUND--CREATED--PURPOSE.--The "racehorse testing fund" is created in the state treasury. The purpose of the fund is to ensure the testing of racehorses at a laboratory that meets or exceeds the current national laboratory standards for the testing of drugs or other foreign substances not naturally occurring in a horse, as established by the association of racing commissioners international, incorporated. The fund consists of one-half of the daily capital outlay tax appropriated and transferred pursuant to Paragraph (4) of Subsection A of Section 60-1A-20 NMSA 1978 and appropriations, gifts, grants and donations made to the fund. Income from investment of the fund shall be credited to the fund. The commission shall administer the racehorse testing fund, and money in the fund is appropriated to the commission for the handling of pre- and post-race, out-of-competition and necropsy testing of blood serum plasma, urine or other appropriate test samples taken from racehorses pursuant to Section 60-1A-14 NMSA 1978, following guidelines that meet or exceed the standards established in model rules published by the association of racing commissioners international, incorporated, or a successor organization or, if none, by another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry as determined by the commission. Any unexpended or unencumbered balance remaining in the racehorse testing fund at the end of a fiscal year in excess of six hundred thousand dollars (\$600,000) shall revert to the general fund. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the executive director of the commission."

Chapter 140 Section 3 Laws 2015

SECTION 3. REPEAL.--Laws 2013, Chapter 102, Section 2 is repealed.

Senate Bill 489, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 141

AN ACT

RELATING TO STATE GOVERNMENT; AMENDING THE SUNSHINE PORTAL TRANSPARENCY ACT; PROVIDING ACCESS TO ADDITIONAL INFORMATION ABOUT STATE CONTRACTS.

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

Chapter 141 Section 1 Laws 2015

SECTION 1. Section 10-16D-3 NMSA 1978 (being Laws 2010, Chapter 34, Section 3, as amended) is amended to read:

"10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

A. The department, with the department of finance and administration, shall develop, operate and maintain a single internet web site that is free, user-friendly, searchable and accessible to the public, known as the "sunshine portal", to host the state's financial information for the purpose of governmental transparency and accountability to taxpayers.

B. No later than October 1, 2010, the department shall create the architecture and the information exchange process for the collection and electronic publication of the state's financial information.

C. No later than July 1, 2011, the sunshine portal shall be available for public access and include updated information as required by Subsection D of this section.

D. The sunshine portal shall provide, at a minimum, access to the following information:

- (1) the state's cash balances by account or fund;
- (2) a monthly summary of the state's investment accounts;

(3) annual operating budgets for each state agency with monthly expenditures by category;

(4) contracts that a state agency enters into for the lease, sale or development of state land and state contracts that have a total contract price of more than twenty thousand dollars (\$20,000), naming the recipient of the contract, the purpose of the contract and the amounts expended. No later than January 1, 2017, the information provided shall also include:

(a) the name of the recipient of the contract;

(b) the purpose of the contract;

(c) the amounts expended on the contract;

(d) a copy of or an internet web site link to a copy of the contract document, including amendments; and

(e) a copy of or an internet web site link to a copy of a resident certificate issued pursuant to Section 13-1-22 NMSA 1978 and used in the award of a contract;

(5) the revenue that the state received in the preceding month by source, such as type of tax, fee, fine, administrative fee or other collection category;

(6) special appropriations received outside the general appropriation act by each state agency and the purpose of those appropriations;

(7) approved budget adjustment requests by state agency and affected budget category;

(8) quarterly consensus revenue estimates;

(9) reversions and cash balances by state agency and fund;

(10) appropriations for capital projects, identified by project location, type of project and funding source;

(11) a directory of all employee positions, other than exempt employee positions, identified only by state agency, position title and salary;

(12) a directory of all exempt employee positions, identified by state agency, position title, salary and the name of the individual that holds the position;

(13) information relating to local education providers compiled and published by the public education department pursuant to Section 10-16D-6 NMSA 1978;

(14) a link to an open meeting tracker web site upon which each state agency shall post open meetings scheduled for the current month and the next month, including the time and place of the meeting, the subject of the meeting and an agenda;

(15) a link to the web site maintained by the regulation and licensing department for the purpose of accessing information relating to occupational licenses;

(16) a link to the state auditor's web site for the purpose of accessing financial audits;

(17) a link to New Mexico's statutes;

(18) a link to the New Mexico Administrative Code;

(19) a link to the secretary of state's web sites for lobbyist regulation;

(20) an annual summary within three months after the end of the fiscal year, or as soon thereafter as the information becomes available, of the state's fiscal health, including the state budget, revenues and expenditures for the previous fiscal year and projected revenues and operating budgets for the current fiscal year; and

(21) additional information, as required by rule of the department of finance and administration, that will assist the public in understanding state government operations and the use of taxpayer dollars.

E. State agencies shall provide updated financial information as frequently as possible but at least monthly.

F. The department shall update the web site as new information is received but at least monthly, include information from the previous month or year, where relevant, for comparison purposes and maintain the web site as the primary source of public information about the activity of the state government."

Senate Bill 537, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 142

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING.

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

Chapter 142 Section 1 Laws 2015

SECTION 1. APPROPRIATION.--One million eight hundred thousand dollars (\$1,800,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2016 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

Chapter 142 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

Senate Bill 552

Approved April 10, 2015

LAWS 2015, CHAPTER 143

AN ACT

RELATING TO THE FILM PRODUCTION TAX CREDIT ACT; PROVIDING THAT THE FILM PRODUCTION TAX CREDIT ONLY APPLIES TO FILM PRODUCTION COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JANUARY 1, 2016; CREATING NEW CREDITS AND DEFINITIONS FOR FILM PRODUCTION COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY ON AND AFTER JANUARY 1, 2016; PROVIDING THAT ALL CREDITS PROVIDED BY THE FILM PRODUCTION TAX CREDIT ACT ARE SUBJECT TO THE SAME AGGREGATE CAP; LIMITING THE TYPES OF DIRECT PRODUCTION EXPENDITURES THAT MAY BE ELIGIBLE FOR ADDITIONAL CREDIT; EXCLUDING PAYMENTS TO CERTAIN ARTISTS FROM THE LIMITATION OF DIRECT PRODUCTION EXPENDITURES; AMENDING AND CREATING DEFINITIONS USED IN THE FILM PRODUCTION TAX CREDIT ACT; LIMITING THE TYPES OF DIRECT PRODUCTION EXPENDITURES

PAID TO A NONRESIDENT PERFORMING ARTIST THAT ARE ELIGIBLE FOR THE CREDIT.

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

Chapter 143 Section 1 Laws 2015

SECTION 1. Section 7-2F-1 NMSA 1978 (being Laws 2002, Chapter 36, Section 1, as amended) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT--FILM PRODUCTION COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JANUARY 1, 2016.--

A. The tax credit created by this section may be referred to as the "film production tax credit".

B. Except as otherwise provided in this section, an eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in this section, a tax credit in an amount equal to twenty-five percent of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the film production tax credit; and

(d) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction; and

(2) postproduction expenditures made in New Mexico that:

(a) are directly attributable to the production of a commercial film or audiovisual product;

(b) are for services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the film production tax credit; and

(e) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction.

C. In addition to the percentage applied pursuant to Subsection B of this section, another five percent shall be applied in calculating the amount of the film production tax credit to direct production expenditures:

(1) on a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more; or

(2) on a production with a total New Mexico budget of the following amounts; provided that the expenditures are directly attributable and paid to a New Mexico resident who is hired as industry crew, or who is hired as a producer, writer or director working directly with the physical production and has filed a New Mexico income tax return as a resident in the two previous taxable years:

(a) not more than thirty million dollars (\$30,000,000) that shoots at least ten principal photography days in New Mexico at a qualified production facility; provided that a film production company in principal photography on or after April 10, 2015 shall: 1) shoot at least seven of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and 2) for each of the ten days, include industry crew working on the premises of those facilities for a minimum of eight hours within a twenty-four-hour period; or

(b) thirty million dollars (\$30,000,000) or more that shoots at least fifteen principal photography days in New Mexico at a qualified production facility; provided that a film production company in principal photography on or after April 10, 2015 shall:

1) shoot at least ten of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and 2) for each day of the fifteen days, include industry crew working on the premises of the facility for a minimum of eight hours within a twenty-four-hour period.

D. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax

credit program, the percentage to be applied in calculating the film production tax credit is twenty percent.

E. A claim for film production tax credits shall be filed as part of a return filed pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act or an information return filed by a pass-through entity. The date a credit claim is received by the department shall determine the order that a credit claim is authorized for payment by the department. Except as otherwise provided in this section, the aggregate amount of claims for a credit provided by the Film Production Tax Credit Act that may be authorized for payment in any fiscal year is fifty million dollars (\$50,000,000) with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products. A film production company that submits a claim for a film production tax credit that is unable to receive the tax credit because the claims for the fiscal year exceed the limitation in this subsection shall be placed for the subsequent fiscal year at the front of a queue of credit claimants submitting claims in the subsequent fiscal year in the order of the date on which the credit was authorized for payment.

F. If, in fiscal years 2013 through 2015, the aggregate amount in each fiscal year of the film production tax credit claims authorized for payment is less than fifty million dollars (\$50,000,000), then the difference in that fiscal year or ten million dollars (\$10,000,000), whichever is less, shall be added to the aggregate amount of the film production tax credit claims that may be authorized for payment pursuant to Subsection E of this section in the immediately following fiscal year.

G. Except as otherwise provided in this section, credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to provisions of the Tax Administration Act to the taxpayer as follows:

(1) a credit claim amount of less than two million dollars (\$2,000,000) per taxable year shall be paid immediately upon authorization for payment of the credit claim;

(2) a credit claim amount of two million dollars (\$2,000,000) or more but less than five million dollars (\$5,000,000) per taxable year shall be divided into two equal payments, with the first payment to be made immediately upon authorization of the payment of the credit claim and the second payment to be made twelve months following the date of the first payment; and

(3) a credit claim amount of five million dollars (\$5,000,000) or more per taxable year shall be divided into three equal payments, with the first payment to be made immediately upon authorization of payment of the credit claim, the second payment to be made twelve months following the date of the first payment and the third payment to be made twenty-four months following the date of the first payment.

H. For a fiscal year in which the amount of total credit claims authorized for payment is less than the aggregate amount of credit claims that may be authorized for payment pursuant to this section, the next scheduled payments for credit claims authorized for payment pursuant to Subsection G of this section shall be accelerated for payment for that fiscal year and shall be paid to a taxpayer pursuant to the Tax Administration Act and in the order in which outstanding payments are scheduled in the queue established pursuant to Subsections E and G of this section; provided that the total credit claims authorized for payment shall not exceed the aggregate amount of credit claims that may be authorized for payment pursuant to this section. If a partial payment is made pursuant to this subsection, the difference owed shall retain its original position in the queue.

I. Any amount of a credit claim that is carried forward pursuant to Subsection G of this section shall be subject to the limit on the aggregate amount of credit claims that may be authorized for payment pursuant to Subsections E and F of this section in the fiscal year in which that amount is paid.

J. A credit claim shall only be considered received by the 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.

K. 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.

L. The film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978.

M. A production for which the film production tax credit is claimed pursuant to Paragraph (1) of Subsection B of this section shall contain an acknowledgment to the state of New Mexico in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included and embedded in the end screen credits of long-form narrative film productions and television episodes, unless otherwise agreed upon in writing by the film production company and the division.

N. To be eligible for the film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction

expenditure. A film production company shall make reasonable efforts, as determined by the division, to contract with a specialized vendor that provides goods and services, inventory or services directly related to that vendor's ordinary course of business. A film production company shall provide to the division a projection of the film production tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

(1) to pay all obligations the film production company has incurred in New Mexico;

(2) to post a notice at completion of principal photography on the web site of the division that:

(a) contains production company information, including the name of the production, the address of the production company and contact information that includes a working phone number, fax number and email address for both the local production office and the permanent production office to notify the public of the need to file creditor claims against the film production company; and

(b) remains posted on the web site until all financial obligations incurred in the state by the film production company have been paid;

(3) that outstanding obligations are not waived should a creditor fail to file;

(4) to delay filing of a claim for the film production tax credit until the division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit; and

(5) to submit a completed application for the film production tax credit and supporting documentation to the division within one year of making the final expenditures in New Mexico that were incurred for the registered project and that are included in the credit claim.

O. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its web site all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns, including that the division shall report quarterly the projected amount of credit claims for the fiscal year.

P. 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 web site the aggregate amount of credits claimed and processed for the fiscal year.

Q. To receive a film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film production tax credit; provided that for the film production tax credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, subject to the provisions of Subsection E of this section, the taxation and revenue department shall approve the film production tax credit and issue a document granting the tax credit.

R. The film production company may apply all or a portion of the film production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film production tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

S. That amount of a film production tax credit for total payments as applied to direct production expenditures for the services of performing artists shall not exceed five million dollars (\$5,000,000) for services rendered by nonresident performing artists and featured resident principal performing artists in a production. This limitation shall not apply to the services of background artists and resident performing artists who are not cast in industry standard featured principal performer roles.

T. As used in this section, "direct production expenditure":

(1) except as provided in Paragraph (2) of this subsection, means a transaction that is subject to taxation in New Mexico, including:

(a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;

(b) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act;

(c) payment to a personal services business for the services of a performing artist if: 1) the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the

film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and

(d) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars (\$100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars (\$150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 10) services for an external audit upon submission of an application for a film production tax credit by an accounting firm that submits the application pursuant to this section; and 11) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars (\$25.00);

(b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars (\$2,500);

(c) entertainment, amusement or recreation;

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations; or

(e) a service provided by a person who is not a New Mexico resident and employed in an industry crew position, excluding a performing artist, where it is the standard entertainment industry practice for the film production company to employ a person for that industry crew position, except when the person who is not a

New Mexico resident is hired or subcontracted by a vendor; and when the film production company, as determined by the division and when applicable in consultation with industry, provides: 1) reasonable efforts to hire resident crew; and 2) financial or promotional contributions toward education or work force development efforts in New Mexico, including at least one of the following: a payment to a New Mexico public education institution that administers at least one industry-recognized film or multimedia program, as determined by the division, in an amount equal to two and one-half percent of payments made to nonresidents in approved positions employed by the vendor; promotion of the New Mexico film industry by directors, actors or executive producers affiliated with the production company's project through social media that is managed by the state; radio interviews facilitated by the division; enhanced screen credit acknowledgments; or related events that are facilitated, conducted or sponsored by the division.

U. As used in this section, "film production company" means a person that produces one or more films or any part of a film and that commences principal photography prior to January 1, 2016.

V. As used in this section, "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act and income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business and services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with:

(1) the standard industry job position of:

- (a) a director;
- (b) a writer;
- (c) a producer;
- (d) an associate producer;
- (e) a co-producer;
- (f) an executive producer;
- (g) a production supervisor;
- (h) a director of photography;
- (i) a motion picture driver whose sole responsibility is driving;

(j) a production or personal assistant;

(k) a designer;

(l) a still photographer; or

(m) a carpenter and utility technician at an entry level; and

(2) nonstandard industry job positions and personal support services."

Chapter 143 Section 2 Laws 2015

SECTION 2. 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. "commercial audiovisual product" means a film or a videogame intended for commercial exploitation;

D. "division" means the New Mexico film division of the economic development department;

E. "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;

F. "film" means a single medium or multimedia program, 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;

G. "fiscal year" means the state fiscal year beginning on July 1;

H. "industry crew" means a person in a position that is off-camera and who provides technical services during the physical production of a film. "Industry crew" does not include a writer, director, producer, background artist or performing artist;

I. "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;

J. "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;

K. "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;

L. "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 business owner or an employee of the business is a resident;

M. "postproduction expenditure" means an expenditure 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;

N. "principal photography" means the production of a film during which the main visual elements are created; and

O. "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, clear-span floor space of at least seven thousand square feet and a ceiling height of no less than twenty-one 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."

Chapter 143 Section 3 Laws 2015

SECTION 3. Section 7-2F-4 NMSA 1978 (being Laws 2011, Chapter 165, Section 5) is amended to read:

"7-2F-4. REPORTING--ACCOUNTABILITY.--

A. The economic development department shall:

(1) collect data to be used in an econometric tool that objectively assesses the effectiveness of the credits provided by the Film Production Tax Credit Act;

(2) track the direct expenditures for the credits;

(3) with the support and assistance of the legislative finance committee staff and the taxation and revenue department, review and assess the analysis developed in Paragraph (1) of this subsection and create a report for presentation to the revenue stabilization and tax policy committee and the legislative finance committee that provides an objective assessment of the effectiveness of the credits; and

(4) report annually to the revenue stabilization and tax policy committee and the legislative finance committee on aggregate approved tax credits made pursuant to the Film Production Tax Credit Act.

B. The division shall develop a form on which the taxpayer claiming a credit pursuant to the Film Production Tax Credit Act shall submit a report to accompany the taxpayer's application for that credit.

C. With respect to the film on which the application for a credit is based, the film production company shall report to the division at a minimum the following information:

(1) the total aggregate wages of the members of the New Mexico resident crew;

(2) the number of New Mexico residents employed;

(3) the total amount of gross receipts taxes paid;

(4) the total number of hours worked by New Mexico residents;

(5) the total expenditures made in New Mexico that do not qualify for the credit;

(6) the aggregate wages paid to the members of the nonresident crew while working in New Mexico; and

(7) other information deemed necessary by the division and economic development department to determine the effectiveness of the credit.

D. For purposes of assessing the effectiveness of a credit, the inability of the economic development department to aggregate data due to sample size shall not relieve the department of the requirement to report all relevant data to the legislature. The division shall provide notice to a film production company applying for a credit that information provided to the division may be revealed by the department in reports to the legislature."

Chapter 143 Section 4 Laws 2015

SECTION 4. A new section of the Film Production Tax Credit Act is enacted to read:

"ADDITIONAL DEFINITIONS.--As used in Sections 5 through 11 of this 2015 act:

A. "direct production expenditure":

(1) except as provided in Paragraph (2) of this subsection, means a transaction that is subject to taxation in New Mexico, including:

(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 resident industry crew in addition to its industry 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 a 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 on the wages and per diem paid to a performing artist of the personal services business 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) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars (\$100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars (\$150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 10) services for an external audit upon submission of an application for a film production tax credit by an accounting firm that submits the application pursuant to Subsection I of Section 5 of this 2015 act; and 11) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars (\$25.00);

(b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars (\$2,500);

(c) entertainment, amusement or recreation; or

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations;

B. "film production company" means a person that produces one or more films or any part of a film and that commences principal photography on or after January 1, 2016; and

C. "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act and income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business."

Chapter 143 Section 5 Laws 2015

SECTION 5. A new section of the Film Production Tax Credit Act is enacted to read:

"FILM AND TELEVISION TAX CREDIT--FILM PRODUCTION COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY ON OR AFTER JANUARY 1, 2016.-

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A. The tax credit created by this section may be referred to as the "film and television tax credit".

B. An eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in Section 11 of this 2015 act, a tax credit in an amount equal to twenty-five percent of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the film and television 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 postproduction services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the film and television 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 film and television tax credit is twenty percent.

D. The film and television 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.

E. A production for which the film and television tax credit is claimed pursuant to Paragraph (1) of Subsection B of this section shall contain an acknowledgment to the state of New Mexico in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included and embedded in the end screen credits of long-form narrative film productions and television episodes, unless otherwise agreed upon in writing by the film production company and the division.

F. To be eligible for the film and television tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction expenditure. A film production company shall provide to the division a projection of the

film and television tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

(1) to pay all obligations the film production company has incurred in New Mexico;

(2) to post a notice at completion of principal photography on the web site of the division that:

(a) contains production company information, including the name of the production, the address of the production company and contact information that includes a working phone number, fax number and email address for both the local production office and the permanent production office to notify the public of the need to file creditor claims against the film production company; and

(b) remains posted on the web site until all financial obligations incurred in the state by the film production company have been paid;

(3) that outstanding obligations are not waived should a creditor fail to file;

(4) to delay filing of a claim for the film and television tax credit until the division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit; and

(5) to submit a completed application for the film and television tax credit and supporting documentation to the division within one year of the close of the film production company's taxable year in which the expenditures in New Mexico were incurred for the registered project and that are included in the credit claim.

G. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its web site all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns, including that the division shall report quarterly the projected amount of credit claims for the fiscal year.

H. 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 web site the aggregate amount of credits claimed and processed for the fiscal year.

I. To receive a film and television tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of

direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film and television tax credit; provided that for the film and television tax credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico incurred within the film production company's taxable year. 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, subject to the provisions of Section 11 of this 2015 act, the taxation and revenue department shall approve the film and television tax credit and issue a document granting the tax credit.

J. The film production company may apply all or a portion of the film and television tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film and television tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded."

Chapter 143 Section 6 Laws 2015

SECTION 6. A new section of the Film Production Tax Credit Act is enacted to read:

"ADDITIONAL CREDIT--TELEVISION PILOTS AND SERIES.--

A. In addition to the credit provided by Section 5 of this 2015 act, an additional five percent shall be applied in calculating the amount of the film and television tax credit to direct production expenditures, except as provided in Subsections C and D of this section, on:

(1) a standalone pilot intended for series television in New Mexico;
and

(2) 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.

B. A film production company applying for an additional credit pursuant to this section shall not be eligible for the additional credit pursuant to Section 7 of this 2015 act.

C. Direct production expenditures that are payments to a nonresident performing artist in a standalone pilot shall not be eligible for the additional credit pursuant to this section.

D. Payments to a nonresident performing artist for a television series may be eligible for the additional credit pursuant to this section; provided that:

(1) a television series completes at least one season of the scheduled episodes for that series in New Mexico;

(2) the film production company certifies the intention to produce a subsequent season to the series described in Paragraph (1) of this subsection in New Mexico; and

(3) the film production company, or its parent company, produces or begins production of an additional eligible television series in New Mexico during the same film production company's taxable year as the television series. Payments to a nonresident performing artist for the additional television series may also be eligible for the additional credit pursuant to this section."

Chapter 143 Section 7 Laws 2015

SECTION 7. A new section of the Film Production Tax Credit Act is enacted to read:

"ADDITIONAL CREDIT--QUALIFIED PRODUCTION FACILITIES.--

A. In addition to the credit provided by Section 5 of this 2015 act, an additional five percent shall be applied in calculating the amount of the film and television tax credit to direct production expenditures that are directly attributable and paid to a New Mexico resident who is hired as industry crew, or who is hired as a producer, writer or director working directly with the physical production and has filed a New Mexico income tax return as a resident in the two previous taxable years. The direct production expenditures shall be on a production with a total new budget of:

(1) not more than thirty million dollars (\$30,000,000) that shoots at least ten principal photography days in New Mexico at a qualified production facility; provided that a film production company shall:

(a) shoot at least seven of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and

(b) for each of the ten days, include industry crew working on the premises of those facilities for a minimum of eight hours within a twenty-four-hour period; or

(2) thirty million dollars (\$30,000,000) or more that shoots at least fifteen principal photography days in New Mexico at a qualified production facility; provided that a film production company shall:

(a) shoot at least ten of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and

(b) for each day of the fifteen days, include industry crew working on the premises of the facility for a minimum of eight hours within a twenty-four-hour period.

B. A film production company that receives an additional credit pursuant to Section 6 of this 2015 act shall not be eligible for the additional credit pursuant to this section."

Chapter 143 Section 8 Laws 2015

SECTION 8. A new section of the Film Production Tax Credit Act is enacted to read:

"ADDITIONAL CREDIT--NONRESIDENT INDUSTRY CREW.--A film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in this section, a tax credit in an amount equal to fifteen percent of the payment of wages, fringe benefits and per diem for nonresident industry crew; provided that:

A. the service for which payment is made is rendered in New Mexico;

B. payments for nonresident industry crew exclude payments for production designer, director of photography, line producer, costume designer, still unit photographer and driver whose sole responsibility is driving;

C. the number of nonresident industry crew shall be employed by the film production company in New Mexico, and shall be, as calculated by the division upon receipt of the first application for a film production tax credit and review of the project's New Mexico budget:

(1) four positions for up to two million dollars (\$2,000,000) of the final New Mexico budget;

(2) one additional position for each additional one million dollars (\$1,000,000) of the project's final New Mexico budget of at least two million dollars (\$2,000,000) up to ten million dollars (\$10,000,000);

(3) one additional position for each additional five million dollars (\$5,000,000) of the project's final New Mexico budget of at least ten million dollars (\$10,000,000) up to fifty million dollars (\$50,000,000);

(4) one additional position for every additional ten million dollars (\$10,000,000) of the project's final New Mexico budget of at least fifty million dollars (\$50,000,000) and thereafter;

(5) eight additional positions, above the number of positions described in this subsection, for a television pilot episode that has not been ordered to series at the time of New Mexico production; provided that the film production company certifies to the division that the series is intended to be produced in New Mexico if the pilot is ordered to series; and

(6) no more than thirty positions; provided that, at the discretion of the division, up to and including ten additional positions may be permitted if five other films are being produced in New Mexico at the time of the film production company's production; and

D. the film production company makes financial or promotional contributions toward educational or work force development efforts in New Mexico as determined by the division, including:

(1) a payment to a New Mexico educational institution that administers at least one industry-recognized film or multimedia program, as determined by the division, equal to at least two and one-half percent of the direct production expenditures for the payment of wages, fringe benefits and per diem for nonresident industry crew made by the film production company to nonresident industry crew; or

(2) promotion of the New Mexico film industry by directors, actors or producers affiliated with the film production company's project through:

(a) social media that is managed by the state;

(b) radio interviews facilitated by the division;

(c) enhanced screen credit acknowledgments; or

(d) related events that are facilitated, conducted or sponsored by the division."

Chapter 143 Section 9 Laws 2015

SECTION 9. A new section of the Film Production Tax Credit Act is enacted to read:

"PAYMENTS FOR PERFORMING ARTISTS--CREDIT LIMITATION.--That amount of a film and television tax credit for the total payments of direct production expenditures for the services of performing artists shall not exceed five million dollars (\$5,000,000) for services rendered by nonresident performing artists and featured resident principal performing artists in a production. This limitation shall not apply to the services of background artists and resident performing artists who are not cast in industry standard featured principal performer roles."

Chapter 143 Section 10 Laws 2015

SECTION 10. A new section of the Film Production Tax Credit Act is enacted to read:

"REQUIREMENTS TO CONTRACT WITH CERTAIN VENDORS.--

A. A film production company shall make reasonable efforts, as determined by the division, to contract with a specialized vendor whose ordinary course of business directly relates to a standard industry craft inventory and that:

(1) provides services;

(2) provides inventory, for sale or lease, that is maintained in New Mexico and represented by the specialized vendor; or

(3) subcontracts similar standard industry craft inventory from other businesses with or without physical presence.

B. If a film production company does not contract with a specialized vendor, but contracts with a vendor that provides services, does not sell or lease standard industry craft inventory and outsources inventory from out-of-state businesses for a film production company, the film production company shall provide documentation of reasonable efforts made to find a specialized vendor."

Chapter 143 Section 11 Laws 2015

SECTION 11. A new section of the Film Production Tax Credit Act is enacted to read:

"CREDIT CLAIMS--AGGREGATE AMOUNT OF CLAIMS ALLOWED.--

A. A claim for a film and television tax credit 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 a pass-through entity. The date a credit claim is received by the department shall determine the order that a credit claim is authorized for payment by the department. The aggregate amount of claims for a credit provided by the Film Production Tax Credit Act that may be authorized for payment in any fiscal year

is fifty million dollars (\$50,000,000) with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products. A film production company that submits a claim for a film and television tax credit that is unable to receive the tax credit because the claims for the fiscal year exceed the limitation in this subsection shall be placed for the subsequent fiscal year at the front of a queue of credit claimants submitting claims in the subsequent fiscal year in the order of the date on which the credit was authorized for payment.

B. Except as otherwise provided in this section, credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to provisions of the Tax Administration Act to the taxpayer as follows:

(1) a credit claim amount of less than two million dollars (\$2,000,000) per taxable year shall be paid immediately upon authorization for payment of the credit claim;

(2) a credit claim amount of two million dollars (\$2,000,000) or more but less than five million dollars (\$5,000,000) per taxable year shall be divided into two equal payments, with the first payment to be made immediately upon authorization of the payment of the credit claim and the second payment to be made twelve months following the date of the first payment; and

(3) a credit claim amount of five million dollars (\$5,000,000) or more per taxable year shall be divided into three equal payments, with the first payment to be made immediately upon authorization of payment of the credit claim, the second payment to be made twelve months following the date of the first payment and the third payment to be made twenty-four months following the date of the first payment.

C. For a fiscal year in which the amount of total credit claims authorized for payment is less than the aggregate amount of credit claims that may be authorized for payment pursuant to this section, the next scheduled payments for credit claims authorized for payment pursuant to Subsection B of this section shall be accelerated for payment for that fiscal year and shall be paid to a taxpayer pursuant to the Tax Administration Act and in the order in which outstanding payments are scheduled in the queue established pursuant to Subsections A and B of this section; provided that the total credit claims authorized for payment shall not exceed the aggregate amount of credit claims that may be authorized for payment pursuant to this section. If a partial payment is made pursuant to this subsection, the difference owed shall retain its original position in the queue.

D. Any amount of a credit claim that is carried forward pursuant to Subsection B of this section shall be subject to the limit on the aggregate amount of credit claims that may be authorized for payment pursuant to Subsection A of this section in the fiscal year in which that amount is paid.

E. A credit claim shall only be considered received by the 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."

SCORC/Senate Bill 565

Approved April 10, 2015

LAWS 2015, CHAPTER 144

AN ACT

RELATING TO HEALTH CARE; AMENDING A SECTION OF THE PHYSICAL THERAPY ACT TO REMOVE THE CONDITION PRECEDENT FOR PHYSICAL THERAPY TREATMENT OF A PRIOR PRIMARY CARE MEDICAL DIAGNOSIS.

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

Chapter 144 Section 1 Laws 2015

SECTION 1. Section 61-12D-10 NMSA 1978 (being Laws 1997, Chapter 89, Section 10) is amended to read:

"61-12D-10. LICENSURE--QUALIFICATIONS.--

A. An applicant for licensure as a physical therapist shall submit a completed application and have the following minimum qualifications:

- (1) be of good moral character;
- (2) be a graduate of an accredited physical therapy program approved by the board;
- (3) have successfully passed the national physical therapy examination approved by the board; and

(4) have successfully passed the state jurisprudence examination.

B. An applicant for licensure as a physical therapist who has been educated outside the United States shall submit a completed application and meet the following minimum qualifications in addition to those required in Paragraphs (1), (3) and (4) of Subsection A of this section:

(1) provide satisfactory evidence that the applicant's education is substantially equivalent to the requirements of physical therapists educated in accredited educational programs in the United States, as determined by the board. If the board determines that a foreign-educated applicant's education is not substantially equivalent, it may require completion of additional course work before proceeding with the application process;

(2) provide evidence that the applicant is a graduate of a school of training that is recognized by the foreign country's own ministry of education or similar institution;

(3) provide written proof of authorization to practice as a physical therapist without limitations in the legal jurisdiction where the postsecondary institution from which the applicant has graduated is located;

(4) provide proof of legal authorization to reside and seek employment in the United States or its territories;

(5) have the applicant's educational credentials evaluated by a board-approved credential evaluation agency;

(6) pass all approved English proficiency examinations as may be prescribed by the board if English is not the applicant's primary language; and

(7) participate in an interim supervised clinical practice period as may be prescribed by the board.

C. The board may issue an interim permit to a foreign-trained applicant who satisfies the board's requirements. An interim permit shall be issued for the purpose of participating in a supervised clinical practice period.

D. If the foreign-educated physical therapist applicant is a graduate of a college accredited by the commission on accreditation in physical therapy education, the requirements of Paragraphs (1), (2), (5) and (7) of Subsection B of this section are waived.

E. An applicant for licensure as a physical therapist assistant shall submit a completed application and meet the following minimum requirements:

(1) be of good moral character;

(2) be a graduate of an accredited physical therapist assistant program approved by the board;

(3) have successfully passed the national physical therapy examination approved by the board; and

(4) have successfully passed the state jurisprudence examination.

F. An applicant for licensure as a physical therapist or physical therapist assistant shall file a written application on forms provided by the board. A nonrefundable application fee and the cost of the examination shall accompany the completed written application.

G. Applicants who fail to pass the examinations shall be subject to requirements determined by board regulations prior to being approved by the board for subsequent testing.

H. The board or its designee shall issue a license to a physical therapist or physical therapist assistant who has a valid unrestricted license from another United States jurisdiction and who meets all requirements for licensure in New Mexico.

I. Prior to licensure, if prescribed by the board, the board or its designee may issue a temporary nonrenewable license to a physical therapist or physical therapist assistant who has completed the education and experience requirements of the Physical Therapy Act. The temporary license shall allow the applicant to practice physical therapy under the supervision of a licensed physical therapist until a permanent license is approved that shall include passing the national physical therapy examination.

J. The board or its designee may issue a temporary license to a physical therapist or physical therapist assistant performing physical therapy while teaching an educational seminar who has met the requirements established by regulation of the board.

K. A physical therapist or physical therapist assistant licensed under the provisions of the Physical Therapy Act shall renew the physical therapist's or physical therapist assistant's license as specified in board rules. A person who fails to renew the person's license by the date of expiration shall not practice physical therapy as a physical therapist or physical therapist assistant in New Mexico.

L. Reinstatement of a lapsed license following a renewal deadline requires payment of a renewal fee and late fee.

M. Reinstatement of a physical therapist or physical therapist assistant license that has lapsed for more than three years, without evidence of continued

practice in another state pursuant to a valid unrestricted license in that state, requires reapplication and payment of fees, as specified in board rules. The board shall promulgate rules establishing the qualifications for reinstatement of a lapsed license.

N. The board may establish, by rule, activities to periodically assess continuing competence to practice physical therapy.

O. A physical therapist shall refer a patient to the patient's licensed health care provider if:

(1) after thirty days of initiating physical therapy intervention, the patient has not made measurable or functional improvement with respect to the primary complaints of the patient; provided that the thirty-day limit shall not apply to:

(a) treatment provided for a condition related to a chronic, neuromuscular or developmental condition for a patient previously diagnosed by a licensed health care provider as having a chronic, neuromuscular or developmental condition;

(b) services provided for health promotion, wellness, fitness or maintenance purposes; or

(c) services provided to a patient who is participating in a program pursuant to an individual education plan or individual family service plan under federal law; or

(2) at any time, the physical therapist has reason to believe the patient has symptoms or conditions requiring treatment that is beyond the scope of practice of the physical therapist.

P. As used in this section, "licensed health care provider" means:

(1) a physician licensed pursuant to the Medical Practice Act;

(2) an osteopathic physician licensed pursuant to Chapter 61, Article 10 NMSA 1978;

(3) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;

(4) a podiatrist licensed pursuant to the Podiatry Act;

(5) a dentist licensed pursuant to the Dental Health Care Act;

(6) a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;

(7) a certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(8) a certified nurse-midwife licensed pursuant to the Nursing Practice Act and registered with the public health division of the department of health as a certified nurse-midwife;

(9) a certified nurse specialist licensed pursuant to the Nursing Practice Act; or

(10) a physician assistant licensed pursuant to the Medical Practice Act."

Senate Bill 571, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 145

AN ACT

RELATING TO ELECTIONS; CHANGING REQUIREMENTS AND PROCEDURES FOR VOTER REGISTRATION; PROVIDING PROCEDURES AND REQUIREMENTS FOR REGISTRATION BY ELECTRONIC MEANS; ENACTING THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT; MAKING CORRESPONDING CHANGES TO THE ELECTION CODE AND THE MUNICIPAL ELECTION CODE; PROHIBITING PROXY VOTING; ALLOWING USE OF COUNTY CLERK EMPLOYEES AS ELECTION CLERKS; REQUIRING SUFFICIENT STAFF AND EQUIPMENT AT POLLING LOCATIONS; SETTING, CLARIFYING AND STANDARDIZING PROCESSES, DATES AND DEADLINES; PROVIDING DEFINITIONS; ALLOWING ACCESS BY COUNTY CLERKS TO THE DRIVER'S LICENSE DATABASE; PERMITTING PARTY COMMITTEE APPOINTMENTS ACCORDING TO PARTY RULES; PRESCRIBING THE ORDER OF OFFICES ON THE BALLOT; EXEMPTING CERTAIN VOTING RECORDS FROM THE INSPECTION OF PUBLIC RECORDS ACT UNTIL AFTER ALL RECOUNTS, CONTESTS AND CANVASSING ARE COMPLETED; ENSURING THAT MISTAKEN CANCELLATION OF REGISTRATION WILL NOT VOID A PROVISIONAL BALLOT; RESTRICTING THE HOLDING OF OTHER ELECTIONS WITHIN FIFTY DAYS OF A GENERAL ELECTION; PRESCRIBING RECOUNT PROCEDURES; PROVIDING STANDARDS FOR CONSOLIDATED PRECINCTS; AUTHORIZING SCHOOL BOARDS TO SET THE TIMES FOR ALTERNATE VOTING LOCATIONS; REQUIRING ELECTIONS FOR CHANGING THE NUMBER OF SCHOOL BOARD MEMBERS TO BE HELD DURING A REGULAR SCHOOL ELECTION; UPDATING FORMS; PROVIDING FOR A PENALTY; ASSIGNING PROSECUTORIAL DUTIES; GRANTING AUTHORITY TO THE SECRETARY OF STATE TO COOPERATE WITH

LOCAL, STATE AND FEDERAL AGENCIES ON VERIFICATION OF VOTER
REGISTRATION INFORMATION.

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

Chapter 145 Section 1 Laws 2015

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

"FEDERAL QUALIFIED ELECTOR.--As used in the Election Code, "federal qualified elector" means:

- A. a uniformed-service voter; or
- B. an overseas voter."

Chapter 145 Section 2 Laws 2015

SECTION 2. A new section of the Election Code is enacted to read:

"OVERSEAS VOTER.--As used in the Election Code, "overseas voter" means an individual who is a United States citizen, who is outside the United States and who:

- A. is temporarily absent from the individual's residence in this state;
- B. before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
- C. before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
- D. was born outside the United States, is not otherwise described in this section and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:
 - (1) the last place where a parent or legal guardian of the individual was, or would have been, eligible to vote before leaving the United States is within this state; and
 - (2) the individual has not previously registered to vote in any other state."

Chapter 145 Section 3 Laws 2015

SECTION 3. A new section of the Election Code is enacted to read:

"UNIFORMED-SERVICE VOTER.--As used in the Election Code, "uniformed-service voter" means an individual who is a United States citizen, whose voting residence is in this state, who otherwise satisfies this state's voter eligibility requirements and who is:

A. a member of the active or reserve components of the army, navy, air force, marine corps or coast guard of the United States who is on active duty and who by reason of that active duty is absent from the state;

B. a member of the merchant marine, the commissioned corps of the public health service, the astronaut program of the national aeronautics and space administration or the commissioned corps of the national oceanic and atmospheric administration of the United States and who by reason of that service is absent from the state;

C. a member on activated status of the national guard or state militia and who by reason of that active duty is absent from the member's county of residence; or

D. a spouse or dependent of a member referred to in Subsection A, B or C of this section and who, by reason of active duty or service of the member, is absent from the state; provided the spouse or dependent is an individual recognized as a spouse or dependent by the entity under which the member is serving."

Chapter 145 Section 4 Laws 2015

SECTION 4. Section 1-1-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 5, as amended) is amended to read:

"1-1-5. VOTER.--As used in the Election Code, "voter" means any qualified elector or federal qualified elector who is registered under the provisions of the Election Code."

Chapter 145 Section 5 Laws 2015

SECTION 5. A new section of the Election Code is enacted to read:

"POWER OF ATTORNEY--PROHIBITED USE.--A power of attorney or other form of proxy is not valid for use by a person in any procedure or transaction concerning elections, including voter registration, petition signature, voter-registration cancellation, absentee ballot requests or voting another person's ballot."

Chapter 145 Section 6 Laws 2015

SECTION 6. Section 1-1-22 NMSA 1978 (being Laws 2005, Chapter 270, Section 1) is amended to read:

"1-1-22. COMPUTATION OF TIME--DEADLINES.--For the purpose of the Election Code, time periods of less than eleven days shall be computed as calendar days; provided, however, that if an actual deadline falls on a weekend or state-recognized holiday, the next business day shall be the deadline, unless the deadline is expressed as a day of the week, in which case that day remains the actual deadline."

Chapter 145 Section 7 Laws 2015

SECTION 7. 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 fifty-six 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."

Chapter 145 Section 8 Laws 2015

SECTION 8. Section 1-2-1.1 NMSA 1978 (being Laws 1979, Chapter 74, Section 3, as amended) is amended to read:

"1-2-1.1. ATTORNEY GENERAL REQUIRED TO ASSIST SECRETARY OF STATE--DISTRICT ATTORNEYS REQUIRED TO ASSIST SECRETARY OF STATE AND COUNTY CLERKS.--

A. The attorney general shall, upon request of the secretary of state, provide legal advice, assistance, services and representation as counsel in any action to enforce the provisions of the Election Code and the Municipal Election Code.

B. Upon the request of the secretary of state or a county clerk, the attorney general and the several district attorneys of the state shall assign investigators

or lawyers to aid the secretary of state and county clerks to ensure the proper conduct of an election.

C. Each district attorney shall assign a lawyer to be the elections prosecutor for the judicial district or for each county in the judicial district. The district attorney shall communicate and maintain current the name and contact information of the assigned elections prosecutor to the secretary of state and to each county clerk in the judicial district. The assigned elections prosecutor shall receive from the county clerk in the prosecutor's county or judicial district referrals of suspected violations of the Election Code. The assigned elections prosecutor shall each month report in writing to the county clerk and the district attorney the status of each referral until the matter is concluded."

Chapter 145 Section 9 Laws 2015

SECTION 9. Section 1-2-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 32, as amended) is amended to read:

"1-2-12. PRECINCT BOARD--NUMBER FOR EACH PRECINCT.--

A. For primary, general and special federal elections, the precinct board shall consist of:

- (1) a presiding judge;
- (2) two election judges; and
- (3) one election clerk.

B. The county clerk, in appointing precinct boards for primary, general and special federal elections:

(1) shall appoint presiding judges and election judges so that at least one election judge shall not be of the same political party, if any, as the presiding judge; and

(2) may appoint teams of presiding judges and election judges for absent voter precincts, recount precinct boards and alternate voting locations, provided that each team meets the requirements pursuant to Paragraph (1) of this subsection.

C. For all other elections, the precinct board shall consist of:

- (1) a presiding judge;
- (2) one election judge; and

(3) one election clerk.

D. If the county clerk determines that additional election clerks are needed, the clerk may appoint such additional election clerks as the clerk deems necessary.

E. County clerk employees may be appointed to assist a precinct board."

Chapter 145 Section 10 Laws 2015

SECTION 10. Section 1-2-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 39, as amended) is amended to read:

"1-2-20. MESSENGERS--COMPENSATION.--

A. The county clerk may appoint messengers to deliver ballot boxes, poll books, keys, election supplies and other materials pertaining to the election. Messengers may also be authorized to collect absentee ballots and removable media storage devices from polling places and deliver them to locations designated by the county clerk.

B. Messengers shall be paid mileage as provided in the Per Diem and Mileage Act each way over the usually traveled route. The mileage shall be paid within thirty days following the date of election if funds are available for payment."

Chapter 145 Section 11 Laws 2015

SECTION 11. 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.--

A. Precincts may be consolidated by the board of county commissioners for the following elections:

- (1) primary and general elections;
- (2) statewide special elections;
- (3) countywide special elections; and
- (4) elections to fill vacancies in the office of United States representative.

B. Precincts may be consolidated by the governing body of a municipality for municipal candidate and bond elections, unless otherwise prohibited.

C. Precincts may be consolidated by the local school board for school district candidate and bond elections, unless otherwise prohibited.

D. When precincts are consolidated for a primary and general election, 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 designation of the polling place. In addition, when consolidating precincts for primary and general elections:

(1) any voter of the county shall be allowed to vote in any consolidated precinct polling location in the county;

(2) each consolidated precinct in a primary or general election shall be composed of no more than ten precincts;

(3) each consolidated precinct shall comply with the provisions of Section 1-3-7 NMSA 1978;

(4) each consolidated precinct polling location shall have a broadband internet connection and real-time access to the statewide voter registration electronic management system;

(5) the county clerk may maintain any alternative voting locations previously used in the same election open for voting on election day for any voter in the county, in addition to the polling location established in each consolidated precinct; and

(6) the board of county commissioners may permit rural precincts to be exempted from operating as or being a part of a consolidated precinct; provided that if the precinct is not designated as a mail ballot election precinct pursuant to Section 1-6-22.1 NMSA 1978 and the polling place for the rural precinct does not have real-time access to the statewide voter registration electronic management system, voters registered in a rural precinct as described in this paragraph are permitted to vote in any consolidated precinct polling location on election day only by use of a provisional paper ballot, which shall be counted after the county clerk confirms that the voter did not also vote in the rural precinct.

E. When precincts are consolidated for a municipal election, school election or special county election, the proclamation, in addition to the other matters required by law, shall state which precincts have been consolidated and the designation of the polling place. Precincts consolidated for a municipal election, school election or special county election may allow any voter to vote in any consolidated precinct in the county, which shall be stated in the proclamation.

F. When precincts are consolidated for a statewide special election or for a special election to fill a vacancy in the office of United States representative, within twenty-one days after the proclamation of election is issued by the governor, the board

of county commissioners shall pass a resolution that, in addition to other matters required by law, shall state which precincts have been consolidated and the designation of the polling place. Precincts consolidated for a statewide special election or for a special election to fill a vacancy in the office of United States representative may allow any voter to vote in any consolidated precinct in the county, which shall be stated in the resolution.

G. Unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived, each consolidated precinct polling location shall:

(1) have ballots available for voters from every precinct that is able to vote in the consolidated precinct;

(2) have at least one optical scan tabulator programmed to read every ballot style able to be cast in the consolidated precinct;

(3) have at least one voting system available to assist disabled voters to cast and record their votes;

(4) have sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible;

(5) have sufficient check-in stations to accommodate voters throughout the day as provided in Section 1-9-5 NMSA 1978;

(6) have a secure area for storage of preprinted ballots or for storage of paper ballot stock and a system designed to print ballots at a polling location;

(7) issue a ballot to voters who have provided the required voter identification after the voter has signed a signature roster or an electronic equivalent approved by the voting system certification committee or after the voter has subscribed an application to vote on a form approved by the secretary of state; and

(8) be in a location that is accessible and compliant with the requirements of the federal Americans with Disabilities Act of 1990.

H. As a prerequisite to consolidation, the authorizing resolution must find that consolidation will make voting more convenient and accessible to voters of the consolidated precinct and does not result in delays for voters in the voting process and the consolidated precinct voting location will be centrally located within the consolidated precinct."

Chapter 145 Section 12 Laws 2015

SECTION 12. A new section of Chapter 1, Article 3 NMSA 1978 is enacted to read:

"ELECTION-DAY POLLING PLACES--ADEQUATE RESOURCES.--

A. Each election-day polling place in a primary or general election that does not contain mail ballot election precincts or precincts consolidated pursuant to Section 1-3-4 NMSA 1978 shall comply with the requirements for polling places and precincts as provided in Subsections B and C of this section, unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived.

B. Each polling place shall:

(1) have at least one voting system available to assist disabled voters to cast and record their votes; and

(2) be in a location that is accessible and compliant with the requirements of the federal Americans with Disabilities Act of 1990.

C. Each precinct polling place located within a single polling place shall have:

(1) a separate precinct board and signature roster for the precinct;

(2) at least one optical scan tabulator for the precinct; and

(3) sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible, for the precinct."

Chapter 145 Section 13 Laws 2015

SECTION 13. Section 1-4-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 63, as amended) is amended to read:

"1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF INFORMATION--PENALTY.--

A. A qualified elector may apply to a registration officer or agent for registration.

B. The registration officer or agent or qualified elector shall fill out each of the blanks on the certificate of registration by typing or printing in ink. The qualified elector shall be given a receipt that shall contain:

(1) a number traceable to the registration agent or officer;

(2) a statement informing the qualified elector that if the qualified elector does not receive confirmation of the qualified elector's registration within fifteen days of the receipt date, the qualified elector should contact the office of the county clerk in the county where the qualified elector resides; and

(3) a toll-free number for the office of the county clerk and an address for the web site of the secretary of state.

C. The qualified elector shall subscribe a certificate of registration as follows:

(1) by signing the certificate of registration using the qualified elector's given name, middle name or initial and last name; or

(2) if any qualified elector seeking to register is unable to read and write either the English or Spanish language or is unable to read or write because of some physical disability, the certificate of such person shall be filled out by a registration officer or agent and the name of the qualified elector so registering shall be subscribed by the making of the qualified elector's mark.

D. When properly executed by the registration agent or officer or qualified elector, the original of the certificate of registration shall be presented, either in person or by mail by the qualified elector or by the registration agent or officer, to the county clerk of the county in which the qualified elector resides. It is unlawful for the qualified elector's month and day of birth or any portion of the qualified elector's social security number required on the certificate of registration to be copied, conveyed or used by anyone other than the person registering to vote, either before or after it is filed with the county clerk, and by elections administrators in their official capacity.

E. A person who unlawfully copies, conveys or uses information from a certificate of registration is guilty of a fourth degree felony."

Chapter 145 Section 14 Laws 2015

SECTION 14. Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

"1-4-5.1. METHOD OF REGISTRATION--FORM.--

A. A qualified elector may apply for registration by mail, in the office of the secretary of state or county clerk or with a registration agent or officer.

B. A person may request certificate of registration forms from the secretary of state or any county clerk in person, by telephone or by mail for that person or for other persons.

C. Except as provided in Subsection D of this section, a qualified elector who wishes to register to vote shall fill out completely and sign the certificate of registration. The qualified elector may seek the assistance of any person in completing the certificate of registration.

D. A qualified elector who has filed for an order of protection pursuant to the provisions of the Family Violence Protection Act and who presents a copy of that order from a state or tribal court to the registration officer shall not be required to provide physical residence address information on the certificate of registration.

E. Completed certificates of registration may be mailed or presented in person by the registrant or any other person to the secretary of state or presented in person by the registrant or any other person to the county clerk of the county in which the registrant resides.

F. If the registrant wishes to vote in the next election, the completed and signed certificate of registration shall be delivered or mailed and postmarked at least twenty-eight days before the election.

G. Within one business day after receipt of a certificate of registration, the secretary of state shall send the certificate to the county clerk in the county where the qualified elector resides. Within one business day after receipt of a certificate of registration of another county, a county clerk shall send the certificate of registration to the county clerk in the county where the qualified elector resides.

H. Only when the certificate of registration is properly filled out, signed by the qualified elector and accepted for filing by the county clerk as evidenced by the county clerk's signature or stamp and the date of acceptance thereon shall it constitute an official public record of the registration of the qualified elector. A qualified elector complies with a voter registration deadline established in the Election Code when a properly filled-out voter registration certificate has been received by a county clerk or the secretary of state, regardless of the date the certificate is processed.

I. The secretary of state shall prescribe the form of the certificate of registration, which form shall be a postpaid mail-in format and shall be printed in Spanish and English. The certificate of registration form shall be clear and understandable to the average person and shall include brief but sufficient instructions to enable the qualified elector to complete the form without assistance. The form shall also include:

(1) the question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen;

(2) the question "Will you be at least eighteen years of age on or before the next general election?" and boxes for the applicant to check to indicate whether the applicant will be eighteen years of age or older on or before the next general election;

(3) the statement "If you checked 'no' in response to either of these questions, do not complete this form.";

(4) a statement informing the applicant that:

(a) if the form is submitted by mail by the applicant and the applicant is registering for the first time in New Mexico, the applicant must submit with the form a copy of: 1) a current and valid photo identification; or 2) a current utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo, that shows the name and current address of the applicant; and

(b) if the applicant does not submit the required identification, the applicant will be required to do so when voting in person or absentee; and

(5) a statement requiring the applicant to swear or affirm that the information supplied by the applicant is true."

Chapter 145 Section 15 Laws 2015

SECTION 15. Section 1-4-5.5 NMSA 1978 (being Laws 1975, Chapter 255, Section 78, as amended) is amended to read:

"1-4-5.5. REQUESTS FOR VOTER DATA, MAILING LABELS OR SPECIAL VOTER LISTS.--

A. The county clerk or secretary of state shall furnish voter data, mailing labels or special voter lists only upon written request to the county clerk or the secretary of state and after compliance with the requirements of this section; provided, however, all requesters shall be treated equally in regard to the charges and the furnishing of the materials.

B. In furnishing voter data, mailing labels or special voter lists, the county clerk or secretary of state shall not provide data or lists that include voters' social security numbers, codes used to identify agencies where voters have registered, a voter's day and month of birth or voters' telephone numbers if prohibited by voters.

C. Each requester of voter data, mailing labels or special voter lists shall sign an affidavit that the voter data, mailing labels and special voter lists shall be used for governmental or election and election campaign purposes only and shall not be made available or used for unlawful purposes.

D. The secretary of state shall prescribe the form of the affidavit.

E. As used in this section:

(1) "election campaign purposes" means relating in any way to a campaign in an election conducted by a federal, state or local government;

(2) "governmental purposes" means noncommercial purposes relating in any way to the structure, operation or decision-making of a federal, state or local government;

(3) "mailing labels" means prepared mailing labels of selected voters arranged in the order in which requested and providing only the name and address of the voter;

(4) "special voter list" means a prepared list of selected voters arranged in the order in which requested; and

(5) "voter data" means selected information derived from the voter file."

Chapter 145 Section 16 Laws 2015

SECTION 16. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For qualified electors, the following provisions shall apply:

A. the county clerk shall receive certificates of registration at all times during normal working hours, except that the clerk shall close registration at 5:00 p.m. on the twenty-eighth day immediately preceding any election at which the registration books are to be furnished to the precinct board;

B. registration shall be reopened on the Monday following the election;

C. for purposes of a municipal or school election, the registration period for those precincts within the municipality or school district is closed at 5:00 p.m. on the twenty-eighth day immediately preceding the municipal or school election and is opened again on the Monday following the election;

D. during the period when registration is closed, the county clerk shall receive certificates of registration and other documents pertaining thereto but shall not file any certificate of registration in the registration book until the Monday following the election, at which time a voter information document shall be mailed to the registrant at the address shown on the certificate of registration;

E. when the twenty-eighth day prior to any election referred to in this section is a Saturday, Sunday or legal holiday, registration shall be closed at 5:00 p.m. of the next succeeding regular business day for the office of the county clerk; and

F. the county clerk shall accept for filing any certificate of registration that is subscribed and dated on or before the twenty-eighth day preceding the election and:

(1) received by the county clerk before

5:00 p.m. on the Friday immediately following the close of registration;

(2) mailed and postmarked not less than twenty-eight days 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 145 Section 17 Laws 2015

SECTION 17. 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 qualified elector is already registered in the county as shown by the qualified elector's original certificate of registration currently on file in the county registration records, the county clerk shall not accept the new certificate of registration unless it is filed pursuant to Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978. 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, social security number and date of birth, along with a signature or usual mark. 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. If the qualified elector does not register in person, indicates that the qualified elector has not previously voted in a general election in New Mexico and does not provide the registration officer with the required 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 145 Section 18 Laws 2015

SECTION 18. Section 1-4-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 68, as amended) is amended to read:

"1-4-12. DUTIES OF COUNTY CLERK--FILING OF CERTIFICATES.--

A. Certificates of registration, if in proper form, shall be processed and filed by the county clerk as follows:

(1) a voter information document shall be delivered or mailed to the voter; and

(2) the original certificate shall be filed alphabetically by surname and inserted into the county register pursuant to Section 1-5-5 NMSA 1978.

B. The county clerk shall, on Monday of each week, process all certificates of registration that are in proper form and that were received in the county clerk's office up to 5:00 p.m. on the preceding Friday. The county clerk shall not process certificates of registration when the registration books are closed pursuant to Section 1-4-8 NMSA 1978, during the county canvass or during the period of time following the county canvass when voter credit is entered into the voter registration electronic management system, provided such credit is entered for all voters no later than forty-five days following an election."

Chapter 145 Section 19 Laws 2015

SECTION 19. A new section of Chapter 1, Article 4 NMSA 1978 is enacted to read:

"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 may enter into a written agreement with the secretary of taxation and revenue to match information in the database of the voter registration electronic management system with information in the database of the motor vehicle division of the taxation and revenue department to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration. Upon the execution of the written agreement, the secretary of taxation and revenue shall enter into an agreement with the federal commissioner of social security pursuant to 42 U.S.C. Section 15483 (now 52 U.S.C. Section 21083), for the purpose of verifying applicable information.

D. The secretary of state shall provide to the appropriate county clerk in this state and to no other person necessary information or documentation received by the secretary of state from or through an agency or political subdivision of this state, a federal department, the chief election officer of another state or a consortium of chief election officers of other states that calls into question the information provided on a certificate of registration; that raises questions regarding the status of a person registered to vote in this state; or that suggests that a voter may have voted in two states during the same election. The county clerk shall only disclose information received from the secretary of state pursuant to this subsection to complete an investigation pursuant to this section.

E. The county clerk shall investigate or reconcile the information received from the secretary of state. The secretary of state shall develop and maintain a manual for county clerks that describes best practices in investigating and reconciling information that is derived from comparisons of different databases, including safeguards to ensure that eligible voters are not removed in error from the official list of voters."

Chapter 145 Section 20 Laws 2015

SECTION 20. Section 1-4-18.1 NMSA 1978 (being Laws 2013, Chapter 91, Section 1) is amended to read:

"1-4-18.1. ONLINE VOTER REGISTRATION.--

A. A person may complete a certificate of registration in person or by mail. In addition, the secretary of state shall, not later than January 1, 2016, allow a voter to submit an update to an existing certificate of registration and, not later than July 1, 2017, allow a qualified elector to submit a new certificate of registration form electronically through a web site authorized by the secretary of state or through any computer system maintained by a state agency for electronic voter registration that is approved by the secretary of state; provided that the person is qualified to register to vote and has 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.

B. An online certificate of registration form shall contain all of the information that is required for a paper form. The person shall also be required to provide the person's full New Mexico driver's license number or state identification card number.

C. When a person submits a new certificate of registration or an update to an existing certificate of registration, the person shall mark the box associated with the following statement included as part of the electronic certificate of registration 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 register 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."

D. Prior to January 1, 2016, the secretary of state, in conjunction with the county clerks of the state, shall adopt rules establishing a uniform and nondiscriminatory process to match the information contained in the voter registration election

management system with the database of the motor vehicle division of the taxation and revenue department or the federal social security administration for electronic certificates of registration updates completed pursuant to this section.

E. Prior to January 1, 2017, the secretary of state, in conjunction with the county clerks of the state, shall adopt rules establishing a uniform and nondiscriminatory process to match the information contained in the voter registration election management system with the database of the motor vehicle division of the taxation and revenue department or the federal social security administration for all electronic certificates of registration completed pursuant to this section.

F. Electronically submitted certificate of registration application forms shall retain the dates of submission by the qualified elector and of acceptance by the county clerk.

G. For purposes of deadlines contained in the Election Code, the time and date of the submission by the qualified elector shall be considered the time and date when the certificate of registration is received by the county clerk.

H. The secretary of state shall ensure that the web sites used for electronic voter registration are secure and that the confidentiality of all users and the integrity of data submitted are preserved."

Chapter 145 Section 21 Laws 2015

SECTION 21. Section 1-5-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 103, as amended) is amended to read:

"1-5-1. SHORT TITLE.--Chapter 1, Article 5 NMSA 1978 may be cited as the "Voter Records System Act"."

Chapter 145 Section 22 Laws 2015

SECTION 22. Section 1-5-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 118, as amended) is amended to read:

"1-5-14. FILE MAINTENANCE REPORTS--VOTER FILE UPDATES.--

A. At least once a month, the secretary of state shall have made from the state voter file a file maintenance report of additions, deletions and changes, if any, to each of the county registers. The file maintenance report shall indicate whether each entry listed is an addition, deletion or change to the county register.

B. A digital version of the file maintenance report shall be stored by the secretary of state for at least one year.

C. Upon request, the secretary of state shall furnish an updated voter file to the state chair of each of the qualified political parties in the state. Upon request, the county clerk shall provide a file maintenance report or an updated voter file to the county chair of each of the qualified political parties in the county.

D. File maintenance reports and updated voter files shall be provided in a manipulable digital format and shall not include the voter's social security number, codes used to identify the agency where the voter registered, the voter's day and month of birth, the voter's email address, or, if prohibited by the voter, the voter's telephone number."

Chapter 145 Section 23 Laws 2015

SECTION 23. Section 1-5-30 NMSA 1978 (being Laws 1989, Chapter 298, Section 1, as amended) is amended to read:

"1-5-30. SECRETARY OF STATE--ESTABLISHMENT OF STATEWIDE COMPUTERIZED VOTER REGISTRATION SYSTEM.--

A. The secretary of state shall develop, implement, establish and supervise a statewide computerized voter registration system that complies with the federal Help America Vote Act of 2002 to facilitate voter registration and to provide a central database containing voter registration information for New Mexico.

B. The statewide computerized voter registration system shall:

(1) provide for the establishment and maintenance of a central database for all voter registration information;

(2) permit the offices of all county clerks to add, modify and delete county information from the system to provide for accurate and up-to-date records;

(3) permit the offices of the county clerks and the bureau of elections to have access to the central database for review and search capabilities;

(4) provide security and protection for all information in the central database and monitor the central database to ensure the prevention of unauthorized entry;

(5) provide procedures for the electronic receipt of voter registration application and update information, including digitized and electronic signatures, photographs and other data provided by the motor vehicle division of the taxation and revenue department or the federal social security administration;

(6) provide procedures for entering data into the central database;
and

(7) provide a centralized system for each county to enter the precinct to which a voter should be assigned for voting purposes."

Chapter 145 Section 24 Laws 2015

SECTION 24. Section 1-5-31 NMSA 1978 (being Laws 1989, Chapter 298, Section 2, as amended) is amended to read:

"1-5-31. UNIFORM PROCEDURES FOR COUNTIES.--The secretary of state shall:

A. assist county clerks by devising uniform procedures and forms that are compatible with the voter registration electronic management system;

B. provide to each county clerk the computer software necessary for the use and maintenance of the voter registration electronic management system;

C. provide to each county clerk, through an agreement with the motor vehicle division of the taxation and revenue department, access to the division's driver's license database for the purpose of verifying voter registrations, processing absentee ballots and qualifying provisional ballots; and

D. adopt such rules as are necessary to establish and administer the voter registration electronic management system and to regulate the use of the driver's license database by county clerks."

Chapter 145 Section 25 Laws 2015

SECTION 25. A new section of the Election Code is enacted to read:

"SHORT TITLE.--Sections 25 through 41 of this act may be cited as the "Uniform Military and Overseas Voters Act"."

Chapter 145 Section 26 Laws 2015

SECTION 26. A new section of the Election Code is enacted to read:

"DEFINITIONS.--As used in the Uniform Military and Overseas Voters Act:

A. "appropriate clerk" means a county clerk for elections conducted pursuant to the Election Code and a municipal clerk for elections conducted pursuant to the Municipal Election Code;

B. "federal postcard application" means the application prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act;

C. "federal write-in absentee ballot" means the ballot approved pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act;

D. "military-overseas ballot" means:

(1) a federal write-in absentee ballot; or

(2) a ballot sent to a federal qualified elector by the appropriate clerk and cast in accordance with the provisions of the Uniform Military and Overseas Voters Act;

E. "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; and

F. "United States", used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States."

Chapter 145 Section 27 Laws 2015

SECTION 27. A new section of the Election Code is enacted to read:

"ELECTIONS COVERED--FORM OF BALLOT AND BALLOT MATERIALS--
BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.--

A. The procedures in the Uniform Military and Overseas Voters Act apply to elections conducted pursuant to the Election Code and the Municipal Election Code.

B. A federal qualified elector may vote for all candidates and on all questions as if the voter were able to cast a ballot in person.

C. The form of the military-overseas ballot shall be the same as the ballot provided to all other voters. The form of the military-overseas ballot materials shall be the same as the ballot materials provided to all other voters, except as required by the Uniform Military and Overseas Voters Act.

D. To receive the benefits of the Uniform Military and Overseas Voters Act, a federal qualified elector shall inform the appropriate clerk that the individual is a federal qualified elector. Methods of informing the appropriate clerk include:

(1) the use of a federal postcard application or federal write-in absentee ballot;

(2) the use of an army post office, fleet post office or diplomatic post office address in the correct format as a mailing address on a certificate of registration or as a delivery address on an absentee ballot application;

(3) the use of an overseas address as a mailing address on a certificate of registration or as a delivery address on an absentee ballot application; or

(4) the inclusion on a certificate of registration or an absentee ballot application or other information sufficient to identify the voter as a federal qualified elector."

Chapter 145 Section 28 Laws 2015

SECTION 28. A new section of the Election Code is enacted to read:

"ROLE OF SECRETARY OF STATE--FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

A. The secretary of state shall make available to federal qualified electors information regarding voter registration procedures for federal qualified electors and procedures for casting military-overseas ballots.

B. The secretary of state shall establish an electronic transmission system through which a federal qualified elector may apply for and receive voter registration materials, military-overseas ballots and other information pursuant to the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that the electronic transmission system is capable of accepting a federal postcard application, any other approved electronic registration application and any other approved electronic military-overseas ballot application sent to a county clerk or municipal clerk.

C. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from federal qualified electors shall be in the same form as those used in the jurisdiction where the voter is registered except as modified to comply with the Uniform Military and Overseas Voters Act or federal law. The secretary of state may, to the extent reasonably possible, coordinate with other states to develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this state.

D. The secretary of state shall prescribe the form and content of a declaration for use by a federal qualified elector to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a federal qualified elector and timely and proper completion of a military-overseas ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with the Uniform Military and Overseas

Voters Act. The secretary of state shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

E. The secretary of state shall prescribe to the appropriate clerk the form of and distribute to each county clerk a supply of:

(1) official inner envelopes for use in sealing the completed absentee ballot;

(2) official mailing envelopes for use in returning the official inner envelope to the appropriate clerk; provided that only the official mailing envelope for absentee ballots in a primary election shall contain a designation of party affiliation;

(3) absentee ballot instructions describing the proper methods for completion and return of the ballot, including instructions for those federal qualified electors returning a ballot electronically;

(4) official transmittal envelopes for use by the appropriate clerk in mailing absentee ballot materials; and

(5) official holding envelopes for ballots returned electronically by federal qualified electors."

Chapter 145 Section 29 Laws 2015

SECTION 29. A new section of the Election Code is enacted to read:

"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 Article 4 of the Election Code;

(2) using a federal postcard application or the application's approved electronic equivalent; or

(3) using the declaration accompanying a federal absentee write-in ballot.

B. A voter's certificate of registration completed pursuant to the Uniform Military and Overseas Voters Act shall remain valid until the voter's certificate of registration is canceled in accordance with the procedures specified in Article 4 of the Election Code.

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 or that precinct part."

Chapter 145 Section 30 Laws 2015

SECTION 30. A new section of the Election Code is enacted to read:

"METHODS OF APPLYING FOR MILITARY-OVERSEAS BALLOT--
TIMELINESS --SCOPE OF APPLICATION FOR MILITARY-OVERSEAS BALLOT.--

A. A federal qualified elector who is currently registered to vote in this state may, by the deadline specified in the Absent Voter Act or Municipal Election Code for receipt of absentee ballot applications, apply for a military-overseas ballot by:

(1) using an absentee ballot application pursuant to the Absent Voter Act or Municipal Election Code;

(2) using the federal postcard application or the application's electronic equivalent; or

(3) using the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot.

B. A federal qualified elector who is not currently registered to vote in this state may, by the deadline in the Election Code for registering to vote, simultaneously register to vote and apply for a military-overseas ballot by using a federal postcard application or the application's electronic equivalent.

C. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an automatic application for a military-overseas ballot for the general election.

D. An application for a military-overseas ballot is effective as an automatic application for a military-overseas ballot for a runoff election necessary to conclude the election for which the application was submitted."

Chapter 145 Section 31 Laws 2015

SECTION 31. A new section of the Election Code is enacted to read:

"TRANSMISSION OF UNVOTED MILITARY-OVERSEAS BALLOTS TO FEDERAL QUALIFIED ELECTORS.--

A. Not later than forty-five days before an election, even if the forty-fifth day before an election falls on a weekend or a holiday, the appropriate clerk shall transmit a ballot and balloting materials to all federal qualified electors who by that date submit a valid military-overseas ballot application.

B. The appropriate clerk shall transmit a ballot and balloting materials as soon as practicable when the ballot application from a federal qualified elector arrives after the forty-fifth day before the election and before absentee ballots are transmitted to other voters pursuant to the Absent Voter Act or the provisions of the Municipal Election Code.

C. The appropriate clerk shall transmit a ballot and balloting materials in accordance with the procedures for processing of all other absentee ballot applications for that jurisdiction when the ballot application from a federal qualified elector arrives after the appropriate clerk has begun transmitting ballots and balloting materials to other voters.

D. A federal qualified elector may request that the ballot and balloting materials be sent by facsimile transmission, electronic mail delivery or other equivalent electronic transmission available to the appropriate clerk where the ballot and balloting materials are sent directly by the clerk to the federal qualified elector. The clerk shall transmit the ballot and balloting materials using the means of transmission requested by the federal qualified elector. The clerk shall determine the most reasonable expedited means of delivery for a ballot and balloting materials for a federal qualified elector who does not request a particular means of transmission."

Chapter 145 Section 32 Laws 2015

SECTION 32. A new section of the Election Code is enacted to read:

"RECEIPT OF VOTED MILITARY-OVERSEAS BALLOTS FROM FEDERAL QUALIFIED ELECTORS.--

A. A military-overseas ballot shall be considered timely if it is received by the appropriate clerk no later than the closing of the polls on election day.

B. A federal qualified elector may transmit, and the appropriate clerk shall accept, a military-overseas ballot by facsimile transmission, electronic mail delivery or other equivalent electronic delivery available to the appropriate clerk when the military-overseas ballot is sent directly by the voter to that clerk; provided that, when sending a military-overseas ballot utilizing any method described in this subsection:

(1) the federal qualified elector signs an affidavit waiving the right of secrecy of the federal qualified elector's ballot;

(2) the federal qualified elector transmits the affidavit with the military-overseas ballot; and

(3) the appropriate clerk places the received ballot in a holding envelope provided by the secretary of state for this purpose and delivers the ballot to the absent precinct board."

Chapter 145 Section 33 Laws 2015

SECTION 33. A new section of the Election Code is enacted to read:

"EMERGENCY RESPONSE PROVIDERS.--

A. An emergency response provider may benefit from the ability to apply for an absentee ballot and to return the marked ballot in the same manner as provided in the Uniform Military and Overseas Voters Act for federal qualified electors; provided that the emergency response provider may not use the federal postcard application or the federal write-in absentee ballot.

B. The appropriate clerk shall transmit to, receive from and process an absentee ballot of an emergency response provider in the same manner as provided in the Uniform Military and Overseas Voters Act for a federal qualified elector.

C. As used in this section, "emergency response provider" means a resident of this state who otherwise satisfies this state's voter eligibility requirements and who, in response to an emergency, is temporarily assigned by a governmental or nongovernmental relief agency or employer to provide support to the victims of the emergency or to rebuild the infrastructure in the affected area and:

(1) the assignment is for a period beginning on or after the thirty-five days immediately prior to an election;

(2) the affected area is outside the individual's county of residence;
and

(3) the president of the United States or the governor of a state has declared an emergency in the affected area."

Chapter 145 Section 34 Laws 2015

SECTION 34. A new section of the Election Code is enacted to read:

"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 measures in an election.

B. In completing the federal write-in absentee ballot, the federal qualified elector may designate a candidate by writing in the name of the candidate. In a general election when voting for a specified office, a federal qualified elector may in the alternate complete the federal write-in absentee ballot by writing in the name of a political party, in which case the ballot shall be counted for the candidate of that political party.

C. A qualified federal write-in absentee ballot shall be processed by the canvassing board in the same manner as a provisional ballot. A federal write-in absentee ballot from a federal qualified elector shall not be qualified if the federal qualified elector voted on any other type of ballot. A federal write-in absentee ballot of an overseas voter shall not be qualified if the ballot is submitted from any location in the United States."

Chapter 145 Section 35 Laws 2015

SECTION 35. A new section of the Election Code is enacted to read:

"CONFIRMATION OF RECEIPT OF APPLICATION AND VOTED BALLOT.--The secretary of state, upon the recommendation of the voting system certification committee, shall implement an electronic free-access system by which a federal qualified elector may determine by telephone, electronic mail or internet whether the federal qualified elector's:

A. federal postcard application or other registration or military-overseas ballot application has been received and accepted; and

B. military-overseas ballot has been received and the current status of the ballot."

Chapter 145 Section 36 Laws 2015

SECTION 36. A new section of the Election Code is enacted to read:

"USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.--

A. The county clerk shall request an electronic-mail address from each federal qualified elector who registers to vote. An electronic-mail address provided by a federal qualified elector shall not be made available to the public and is exempt from disclosure pursuant to the Inspection of Public Records Act. The electronic-mail address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and ballot materials if the voter has requested electronic transmission by electronic mail, and verifying the voter's mailing

address and physical location. The request for an electronic-mail address shall describe the purposes for which the electronic-mail address may be used and include a statement that any other use or disclosure of the electronic-mail address is prohibited.

B. If an absentee ballot is transmitted to a federal qualified elector via electronic mail, the appropriate clerk shall note in the absentee ballot register the voter's registration address, that the ballot was delivered to the voter electronically and the date on which it was sent, but shall not disclose the voter's electronic-mail address.

C. A federal qualified elector who provides an electronic-mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections in the election cycle. The appropriate clerk shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable as an automatic application for a military-overseas ballot."

Chapter 145 Section 37 Laws 2015

SECTION 37. A new section of the Election Code is enacted to read:

"PROHIBITION OF NONSUBSTANTIVE REQUIREMENTS.--

A. If the intention of the voter is clearly discernable in accordance with the provisions of Section 1-1-5.2 NMSA 1978, an abbreviation, misspelling or other minor variation in the form of the name of a candidate or a political party shall be accepted as a valid vote.

B. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted pursuant to the Uniform Military and Overseas Voters Act.

C. Notarization is not required for the execution of any document required by the Uniform Military and Overseas Voters Act."

Chapter 145 Section 38 Laws 2015

SECTION 38. A new section of the Election Code is enacted to read:

"ABSENTEE BALLOTS--REPORTS.--

A. Within thirty days following a general election, the county clerk shall report to the secretary of state the number of absentee ballots transmitted in the general election to uniformed-service voters and overseas voters for the election and the number of those ballots returned, rejected or counted.

B. Within ninety days following a general election, the secretary of state shall report to the federal election assistance commission the combined absentee ballot numbers submitted by the counties pursuant to this section."

Chapter 145 Section 39 Laws 2015

SECTION 39. A new section of the Election Code is enacted to read:

"EQUITABLE RELIEF.--A court of competent jurisdiction of this state may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, the Uniform Military and Overseas Voters Act on application by:

A. a federal qualified elector alleging a grievance under the Uniform Military and Overseas Voters Act; or

B. an election official in this state."

Chapter 145 Section 40 Laws 2015

SECTION 40. A new section of the Election Code is enacted to read:

"UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Military and Overseas Voters Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it."

Chapter 145 Section 41 Laws 2015

SECTION 41. A new section of the Election Code is enacted to read:

"RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Military and Overseas Voters Act modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b)."

Chapter 145 Section 42 Laws 2015

SECTION 42. Section 1-6-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 129, as amended) is amended to read:

"1-6-3. RIGHT TO VOTE BY ABSENTEE BALLOT.--A voter may vote by absentee ballot for all candidates and on all questions appearing on the ballot as if the voter were able to cast the ballot in person."

Chapter 145 Section 43 Laws 2015

SECTION 43. Section 1-6-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 130, as amended) is amended to read:

"1-6-4. ABSENTEE BALLOT APPLICATION.--

A. Application by a voter for an absentee ballot shall be made only on a form prescribed by the secretary of state. The form shall identify the applicant and contain information to establish the applicant's qualification for issuance of an absentee ballot under the Absent Voter Act; provided that on the application form for a general election ballot there shall be no box, space or place provided for designation of the voter's political party affiliation.

B. Each application for an absentee ballot shall be signed by the applicant and shall require the applicant's printed name, registration address and year of birth to be supplied by the applicant, which shall constitute the required form of identification, except for new registrants who have registered by mail and at that time did not provide acceptable identification. 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.

C. A person who willfully and with knowledge and intent to deceive or mislead any voter, precinct 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 an absentee ballot request form is guilty of a fourth degree felony."

Chapter 145 Section 44 Laws 2015

SECTION 44. 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 absentee ballot application with the date and time of receipt in the clerk's office and enter the required information in the absentee ballot register. The county clerk shall then determine if the applicant is a voter, and if the voter is a uniformed-service voter or an overseas voter. If the applicant is a uniformed-service voter or overseas voter, the application shall be processed pursuant to the Uniform Military and Overseas Voters Act.

B. If the applicant does not have a valid certificate of registration on file in the county, an absentee 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. The county clerk shall notify in writing each applicant of the fact of acceptance or rejection of the application and, if rejected, shall explain why the application was rejected.

D. 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 and who registered by mail without submitting the required voter identification, the county clerk shall notify the voter that the voter must submit with the absentee ballot the required physical form of identification. The county clerk shall note on the absentee ballot register and signature roster that the applicant's absentee ballot must be returned with the required identification.

E. If the applicant has on file with the county a valid certificate of registration, the county clerk shall mark the application "accepted" and, beginning twenty-eight days before the election, deliver an absentee ballot to the voter in the county clerk's office or mail to the applicant an absentee ballot and the required envelopes for use in returning the ballot. An absent voter shall not be permitted to change party affiliation during those periods when change of party affiliation is prohibited by the Election Code. Upon delivery of an absentee ballot to a voter in the county clerk's office or mailing of an absentee ballot to an applicant who is a voter, an appropriate designation shall be made on the signature line of the signature roster next to the name of the voter who has been provided or mailed an absentee ballot.

F. Absentee ballots may be marked in person at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election. The act of marking the absentee ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the absentee 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. If the county clerk establishes an additional alternate voting location near the clerk's office, absentee 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 shall be operated by the county clerk and the county clerk's staff.

G. When marking an absentee 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 absentee. In marking the absentee ballot, the voter may be assisted pursuant to the provisions of Section 1-12-15 NMSA 1978.

H. Absentee ballots shall be sent to applicants not later than on the Friday immediately prior to the date of the election.

I. An absentee ballot shall not be delivered or mailed by the county clerk to any person other than the applicant for such ballot.

J. The secretary of state and each county clerk shall make reasonable efforts to publicize and inform voters of the times and locations for absentee voting; provided, however, that notice is provided at least ten days before early voting begins.

K. The secretary of state shall establish procedures for the submittal, when required by federal law, of required voter identification with mailed-in absentee ballots.

L. It is unlawful to electioneer in the county clerk's office or in any alternate voting location."

Chapter 145 Section 45 Laws 2015

SECTION 45. Section 1-6-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 132, as amended) is amended to read:

"1-6-6. ABSENTEE BALLOT REGISTER.--

A. For each election, the county clerk shall keep an "absentee ballot register", in which the county clerk shall enter:

- (1) the name and address of each absentee ballot applicant;
- (2) the date and time of receipt of the application;
- (3) whether the application was accepted or rejected;
- (4) the date of issue of an absentee ballot in the county clerk's office or at an alternate 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 identification pursuant to Section 1-6-5 NMSA 1978; and

(8) the date and time the completed absentee ballot was received from the applicant by the county clerk or the absent voter voted early in person in the county clerk's office or at an alternate location.

B. Absentee ballots shall be sent to applicants beginning twenty-eight days before the election. For each application for an absentee 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 it is sent not later than twenty-two days before the election. Within twenty-two days of election day, the county clerk shall send either the ballot or a notice of rejection to the applicant within twenty-four hours after receipt of the voter's application for an absentee ballot.

C. The absentee 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 absentee ballot register available for public inspection Monday through Friday during regular office hours.

D. The county clerk shall deliver to the absent voter precinct 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 the election. The county clerk shall deliver a signature roster containing the same information as the lists to the absent voter precinct board.

E. Upon request, the county clerk shall transmit to the county chair of each of the major political parties in the county a complete copy of entries made in the absentee ballot register. Such transmissions shall be made once each week beginning four weeks immediately prior to the election. A final copy shall be transmitted on the Saturday immediately following the election.

F. If the county clerk has available the technology to do so, at the request of a candidate or chair of a political party of the county, the county clerk shall electronically transmit to the candidate or chair via the internet the information, when updated, on the absentee ballot register indicating voters who have requested absentee ballots, returned their absentee ballots or voted early in person."

Chapter 145 Section 46 Laws 2015

SECTION 46. Section 1-6-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 134, as amended) is amended to read:

"1-6-8. ABSENTEE 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 absentee ballot;

(2) official mailing envelopes for use in returning the official inner envelope to the county clerk; provided the official mailing envelope for absentee ballots in a general election shall contain no designation of party affiliation;

(3) absentee 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 mailing absentee ballot materials.

B. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the county clerk and voters shall be printed in black in substantially similar form. All official inner envelopes shall be printed in black.

C. The reverse of each official mailing envelope shall contain a form to be executed by the voter completing the absentee ballot. The form shall identify the voter and shall contain the following statement: "I will not vote in this election other than by the enclosed ballot. I will not receive or offer any compensation or reward for giving or withholding any vote."

D. The official mailing envelope shall contain a space for the voter to record the voter's name, registration address and year of birth. The envelope shall have a security flap to cover this information."

Chapter 145 Section 47 Laws 2015

SECTION 47. Section 1-6-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 135, as amended) is amended to read:

"1-6-9. MANNER OF VOTING--ALTERNATE DELIVERY METHODS.--Except as provided in Section 1-6-5 or Section 1-6-5.7 NMSA 1978, a person voting pursuant to the Absent Voter Act shall secretly mark the absentee ballot in the manner provided in the Election Code for marking paper ballots, place it in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then complete the form on the reverse of the official mailing envelope, which shall include a statement by the voter under penalty of perjury that the facts stated in the form are true and the voter's name, registration address and year of birth. Voters shall either deliver or mail the official mailing envelope to the county clerk of their county of residence."

Chapter 145 Section 48 Laws 2015

SECTION 48. Section 1-6-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 136, as amended) is amended to read:

"1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--

A. The county clerk shall mark on each completed official mailing envelope the date and time of receipt in the clerk's office, record this information in the absentee ballot register and safely keep the official mailing envelope unopened in a locked and number-sealed ballot box until it is delivered to the absent voter precinct board or until it is canceled and destroyed in accordance with law.

B. Completed official mailing envelopes shall be accepted until 7:00 p.m. on election day. Any completed official mailing envelope received after that time shall not be delivered to the absent voter precinct board but shall be preserved by the county clerk until the time for election contests has expired. In the absence of a restraining order after expiration of the time for election contests, the county clerk shall destroy all late official mailing envelopes without opening or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the county clerk shall count the numbers of late ballots from voters, uniformed-service voters and overseas voters and report the number from each category to the secretary of state.

C. No later than 5:00 p.m. on the Monday immediately preceding the date of election, the county clerk shall record the numbers of unused ballots and shall publicly destroy in the county clerk's office all such unused ballots or prepare the unused ballots for delivery to precinct boards. The county clerk shall execute a certificate of destruction, which shall include the numbers on the ballots destroyed. A copy of the certificate of destruction shall be sent to the secretary of state."

Chapter 145 Section 49 Laws 2015

SECTION 49. 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 sites 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 if the county is consolidating precincts on election day and, if so, the ability of the voter to cast a ballot at any consolidated precinct on election day if the voter chooses not to receive an absentee ballot, or to cast a provisional ballot at any consolidated precinct if the voter does not receive an absentee ballot, which will be counted upon confirmation that the voter has not returned the absentee ballot.

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.

D. The county clerk shall keep a sufficient number of ballots from a mail ballot election precinct such that if a voter from that precinct does not receive an absentee ballot before election day, the voter may vote on an absentee ballot in the office of the county clerk on election day in lieu of voting on the missing ballot."

Chapter 145 Section 50 Laws 2015

SECTION 50. 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; or

(2) 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 governor's 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. The name of the person to fill the vacancy on the general election ballot shall be filed with the proper filing officer within fifteen days after the primary election, and when so filed, it shall be placed on the general election ballot as the political party's nominee for such office."

Chapter 145 Section 51 Laws 2015

SECTION 51. 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 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 governor's 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 governor's 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 at least fifty-six days prior to the general election.

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 145 Section 52 Laws 2015

SECTION 52. Section 1-8-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 163) is amended to read:

"1-8-14. PRIMARY ELECTION LAW--PROCLAMATION--DUTIES OF SECRETARY OF STATE.--Upon the proclamation being filed, the secretary of state shall immediately:

A. publish the proclamation for five consecutive days in at least four daily newspapers of general circulation in the state;

B. post the proclamation and any amended proclamation on the secretary of state's web site; and

C. send an authenticated copy of the proclamation or any amended proclamation to each county clerk along with a copy of the text in an editable electronic format."

Chapter 145 Section 53 Laws 2015

SECTION 53. Section 1-8-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 165, as amended) is amended to read:

"1-8-16. PRIMARY ELECTION LAW--PROCLAMATION--AMENDMENT.--The governor 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 145 Section 54 Laws 2015

SECTION 54. Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended by Laws 2014, Chapter 40, Section 5 and by Laws 2014, Chapter 81, Section 5) is amended to read:

"1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS
NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

A. Declarations of candidacy by preprimary convention designation for any statewide office or for the office of United States representative shall be filed with the proper filing officer on the first Tuesday in February of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

B. Declarations of candidacy for any other office to be nominated in the primary election shall be filed with the proper filing officer on the second Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

C. Certificates of designation shall be submitted to the secretary of state on the first Tuesday following the preprimary convention at which the candidate's designation took place between the hours of 9:00 a.m. and 5:00 p.m.

D. Declarations of candidacy for retention for all affected judicial offices shall be filed with the proper filing officer between the hours of 9:00 a.m. and 5:00 p.m. on the twenty-third day after the primary election.

E. No candidate's name shall be placed on the ballot until the candidate has been notified in writing by the proper filing officer that the declaration of candidacy, the petition, if required, and the certificate of registration of the candidate on file are in proper order and that the candidate, based on those documents, is qualified to have the candidate's name placed on the ballot. The proper filing officer shall mail the notice no later than 5:00 p.m. on the Tuesday following the filing date.

F. If a candidate is notified by the proper filing officer that the candidate is not qualified to have the candidate's name appear on the ballot, the candidate may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

Chapter 145 Section 55 Laws 2015

SECTION 55. Section 1-9-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 188, as amended) is amended to read:

"1-9-5. REQUIREMENT TO USE VOTING SYSTEMS--SUFFICIENT CHECK-IN
STATIONS AND VOTING BOOTHS.--

A. Certified voting systems shall be used in all polling locations in all statewide elections.

B. The secretary of state shall provide to the county clerk of each county at least one optical scan tabulator for use in each polling location in the general and primary elections. At the request of a county clerk, the secretary of state shall provide additional optical scan tabulators for use in a polling place to accommodate the anticipated number of voters in that polling place and to preserve the secrecy of the ballot. The request shall be made no later than the first Monday in August of each odd-numbered year.

C. The secretary of state shall provide to the county clerk of each county a sufficient number of check-in stations for use in each polling location in the primary and general elections when electronic rosters or their equivalents are used. The number of check-in stations at a polling location shall be capable of accommodating the number of voters who appeared to vote in person on election day from the precincts represented in a consolidated precinct in the same election held four years earlier or the number of voters who actually voted in that polling location four years earlier, whichever is greater; provided that no polling location shall be provided fewer than two check-in stations. No later than the last Tuesday in June of each odd-numbered year, the secretary of state shall determine how many voters a check-in station can accommodate in a day and develop a formula so that a check-in station is in use no more than seventy-five percent of the time. No later than the first Monday in August of the odd-numbered year, the county clerk in each county shall provide to the secretary of state the number of check-in stations required per polling location based on the formula provided by the secretary of state. Nothing in this section prohibits the board of county commissioners from acquiring additional check-in stations for use in an election, in addition to those provided by the secretary of state.

D. The county clerk shall ensure that an adequate number of voting booths are provided to ensure that voters in each polling location may cast their ballots in secret."

Chapter 145 Section 56 Laws 2015

SECTION 56. Section 1-9-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 190, as amended) is amended to read:

"1-9-7. VOTING SYSTEMS--ACQUISITION.--

A. The secretary of state shall provide to the county clerk of each county a sufficient number of voting systems as required by the Election Code for the conduct of primary and general elections.

B. When authorized by the state board of finance, the board of county commissioners may acquire new or previously owned voting systems. No less than ninety days prior to each primary and general election, the board of county commissioners of each county may make application to the state board of finance for any additional voting systems to be acquired by a county in excess of the number of

voting systems required by the Election Code for the conduct of primary and general elections.

C. The additional voting systems shall be of a type certified by the secretary of state. They shall be purchased by the state board of finance. Unless paid in full by the county at the time of purchase, the cost of the voting systems, including all transportation costs, shall be paid out of the voting system revolving fund. The state board of finance shall cause to be delivered to each county clerk the additional voting systems.

D. Except for intercounty acquisitions of equipment approved by the secretary of state, a previously owned voting system shall have a warranty equal to the warranty required of a new voting system."

Chapter 145 Section 57 Laws 2015

SECTION 57. Section 1-10-5 NMSA 1978 (being Laws 1977, Chapter 222, Section 28, as amended) is amended to read:

"1-10-5. BALLOTS--PRINTING.--The county clerk shall have access to sufficient ballots to send to federal qualified electors no later than the last business day before the forty-fifth day prior to an election. All other ballots shall be printed and in the possession of the county clerk at least forty days before the election. When a county is using a system that is designed to print ballots at a polling location, the system shall be programmed and capable of operation at least forty days before the election."

Chapter 145 Section 58 Laws 2015

SECTION 58. Section 1-10-8 NMSA 1978 (being Laws 1977, Chapter 222, Section 31, as amended) is amended to read:

"1-10-8. BALLOTS--PRIMARY AND GENERAL ELECTIONS--ORDER OF OFFICES.--The ballot used in the primary and general elections shall contain, when applicable, the offices to be voted on in the following order:

- A. president and vice president;
- B. United States senator;
- C. United States representative;
- D. non-judicial state offices to be voted on at large, in the order prescribed by the secretary of state;
- E. state senator;

F. state representative;

G. other districted offices, in the order prescribed by the secretary of state;

H. judicial offices in partisan contests, in the order prescribed by the secretary of state;

I. county commissioners;

J. county clerk;

K. county treasurer;

L. county assessor;

M. county sheriff;

N. probate judge; and

O. in the order prescribed by the secretary of state:

(1) judicial offices in retention elections;

(2) local government ballot questions authorized by the board of county commissioners; and

(3) other questions prescribed by the secretary of state."

Chapter 145 Section 59 Laws 2015

SECTION 59. Section 1-10-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 209, as amended) is amended to read:

"1-10-10. BALLOTS--SAMPLE.--

A. The county clerk shall make available in both English and Spanish a number of sample ballots in a quantity and in a printed or electronic format as prescribed by the secretary of state.

B. The sample ballots shall be the same in all respects as the official ballots, except that, if printed, they shall be printed on colored paper and shall not contain the facsimile signature of the county clerk or any endorsement on the back thereof. Each sample ballot shall be marked in large black capital letters, "SAMPLE BALLOT".

C. Printed sample ballots shall be made available in reasonable quantities to all interested persons at the county clerk's office, in each polling place and on the county's web site, if the county maintains a web site."

Chapter 145 Section 60 Laws 2015

SECTION 60. Section 1-12-7.1 NMSA 1978 (being Laws 1969, Chapter 240, Section 112, as amended) is amended to read:

"1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF VOTERS--USE DURING ELECTION.--

A. At each election day polling location, other than a consolidated precinct where any voter in the county may vote, the precinct board shall post securely at or near the entrance of the polling place one copy of an alphabetical list of voters and a map of the precincts represented in that polling place for use of the voters prior to voting. The posted copy shall not contain a listing of voter addresses, years, months or days of birth or social security numbers.

B. At each polling location where physical rosters are used, the presiding judge of the precinct board shall assign one judge or election clerk of the board to be in charge of one copy of the checklist of voters, which shall be used to confirm the registration and voting of each person offering to vote.

C. The presiding judge of the precinct board shall assign one judge or election clerk to be in charge of the signature roster.

D. The judge or election clerk assigned to confirm registration shall determine that each person offering to vote is registered and, in the case of a primary election, that the voter is registered in a party designated on the primary election ballot. If the person's registration is confirmed and the voter provides the required voter identification, the judge or election clerk shall announce to the judges or election clerks the list number and the name of the voter as shown on the checklist of voters. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional paper ballot and shall provide the required voter identification to the county clerk's office before 5:00 p.m. on the second day following the election, or to the precinct board before the polls close, or the voter's provisional ballot shall not be qualified. If the required voter identification is provided, the voter's provisional paper ballot shall be qualified and the voter shall not vote on any other type of ballot.

E. The judge or election clerk shall locate the name on the signature roster and shall require the voter to sign the voter's usual signature or, if unable to write, to make the voter's mark opposite the voter's printed name. If the voter makes the voter's mark, it shall be witnessed by one of the judges or election clerks of the precinct board.

F. If the signature roster indicates that the voter is required to present a physical form of identification before voting, the judge or election clerk shall ask the voter for the required physical form of identification. If the voter does not provide the required identification, the voter shall be allowed to vote on a provisional paper ballot; provided, however, that if the voter brings the required physical form of identification to the polling place after casting a provisional paper ballot, that ballot shall be qualified.

G. The judge or election clerk shall follow the procedures provided for in Sections 1-12-7.2 and 1-12-8 NMSA 1978 if a person whose name does not appear on the signature roster requests to vote or a person is required to vote on a provisional paper ballot.

H. A voter shall not be permitted to vote until the voter has properly signed the voter's usual signature or made the voter's mark in the signature roster."

Chapter 145 Section 61 Laws 2015

SECTION 61. Section 1-12-10.1 NMSA 1978 (being Laws 2003, Chapter 356, Section 2, as amended) is amended to read:

"1-12-10.1. CONDUCT OF ELECTIONS--VOTING INFORMATION.--

A. The secretary of state shall provide voting information, which the county clerks shall display, in accordance with the federal Help America Vote Act of 2002, in each polling place and in each county clerk's office and at any location where voting is taking place.

B. The county clerk shall ensure that in each polling place there is posted the phone numbers of the county clerk and the secretary of state."

Chapter 145 Section 62 Laws 2015

SECTION 62. Section 1-12-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 266, as amended) is amended to read:

"1-12-13. CONDUCT OF ELECTION--AID OR ASSISTANCE TO VOTER IN MARKING BALLOT.--

A. When a voter who is eligible for assistance pursuant to Section 1-12-12 NMSA 1978 requires assistance in marking a ballot or using the voting system, the voter shall announce this fact before receiving the ballot or using the voting system.

B. The voter's request for assistance shall be noted by the voter's name in the signature roster and initialed by the presiding judge.

C. After noting the request for assistance in the signature roster, the voter shall be permitted assistance in marking the ballot or using the voting system as provided in Section 1-12-15 NMSA 1978.

D. Any person who swears falsely in order to secure assistance is guilty of a misdemeanor."

Chapter 145 Section 63 Laws 2015

SECTION 63. Section 1-12-15 NMSA 1978 (being Laws 1969, Chapter 240, Section 267, as amended) is amended to read:

"1-12-15. CONDUCT OF ELECTION--PERSONS WHO MAY ASSIST VOTER.--

A. In any election, if a voter who has requested assistance in marking the ballot is blind, has a physical disability, has an inability to read or write or is a member of a language minority who has requested assistance pursuant to Subsection D of Section 1-12-12 NMSA 1978, the voter may be accompanied into the voting booth only by a person of the voter's own choice other than the voter's employer or an agent of that employer, an officer or agent of the voter's union or a candidate whose name appears on the ballot in this election.

B. The name of the person providing assistance to a voter pursuant to this section shall be recorded on the signature roster.

C. A person who provides assistance to a voter when the person knows the voter does not require assistance pursuant to Section 1-12-12 NMSA 1978 is guilty of a misdemeanor."

Chapter 145 Section 64 Laws 2015

SECTION 64. Section 1-12-25.4 NMSA 1978 (being Laws 2003, Chapter 356, Section 7, as amended) is amended to read:

"1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

A. Upon closing of the polls, provisional paper ballots shall be delivered to the county clerk, who shall determine if the ballots will be counted prior to certification of the election.

B. A provisional paper ballot shall not be counted if the registered voter did not sign either the signature roster or the ballot's envelope.

C. If there is no record of the voter ever having been registered in the county, the voter shall be offered the opportunity to register and the provisional paper ballot shall not be counted.

D. If the voter was registered in the county, the registration was later canceled and the county clerk determines that the cancellation was in error, or that the voter's name should not have been placed on the list of voters whose registrations were to be canceled, the voter's registration shall be immediately restored and the provisional paper ballot counted.

E. If the county clerk determines that the cancellation was not in error, the voter shall be offered the opportunity to register at the voter's correct address, and the provisional paper ballot shall not be counted.

F. If the voter is a registered voter in the county, but has voted on a provisional paper ballot at a polling place other than the voter's designated polling place, the county canvassing board shall ensure that only those votes for the positions or measures for which the voter was eligible to vote are counted.

G. If the county clerk finds that the voter who voted on a provisional paper ballot at the polls has also voted an absentee ballot in that election, the provisional paper ballot shall not be counted.

H. The county canvassing board shall prepare a tally displaying the number of provisional paper ballots received, the number found valid and counted, the number rejected and not counted and the reason for not counting the ballots as part of the canvassing process and forward it to the secretary of state immediately upon certification of the election.

I. The secretary of state shall issue rules to ensure securing the secrecy of the provisional paper ballots, especially during canvassing, reviewing or recounting, and protecting against fraud in the voting process."

Chapter 145 Section 65 Laws 2015

SECTION 65. Section 1-12-31 NMSA 1978 (being Laws 1969, Chapter 240, Section 291, as amended) is amended to read:

"1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT BOXES AND OTHER ELECTION MATERIALS.--

A. The following election returns and materials shall not be placed in the ballot box and shall be returned immediately to the county clerk along with the locked ballot box:

- (1) one ballot box key in an envelope addressed to the county clerk;
- (2) one signature roster;
- (3) one tally sheet; and

(4) all unused election supplies not destroyed pursuant to the Election Code.

B. The removable media storage device shall not be placed in the ballot box and shall be returned immediately to the county clerk either by messenger or along with the locked ballot box.

C. The election judge of the party different from that of the presiding judge shall place the other ballot box key in the envelope addressed to the district court and immediately mail it to the district court."

Chapter 145 Section 66 Laws 2015

SECTION 66. Section 1-12-69 NMSA 1978 (being Laws 1977, Chapter 222, Section 72, as amended) is amended to read:

"1-12-69. DISPOSITION OF PAPER BALLOTS.--

A. Paper ballots marked by voters and all records related to voting in any election in which a federal candidate appears on the ballot shall be retained and preserved for a period of twenty-two months from the date of the election.

B. Paper ballots marked by voters and all records related to voting in any election in which no federal candidate appears on the ballot shall be retained and preserved for forty-five days after adjournment of the state or county canvassing board, whichever is later.

C. In precincts where a recount or judicial inquiry or inspection of contents is sought, the county clerk shall hold ballots marked by voters and records related to voting in those precincts intact until forty-five days following the recount, judicial inquiry or inspection of contents is completed, whichever is later.

D. Paper ballots marked by voters and records related to voting in any election shall only be destroyed using a destruction method approved by the state records administrator for destruction of public records.

E. The state records administrator is authorized to receive for storage and destruction paper ballots marked by voters and records related to voting in any election in which a federal candidate appears on the ballot. At least three days prior to sending the ballots and records to the state records administrator, the county clerk shall notify the county chair of each political party that participated in the election. The chairs or their designees may inspect the boxes prior to their sealing for delivery.

F. At least three days prior to the destruction by the county clerk of paper ballots marked by voters and records related to voting, the county clerk shall notify the county chair of each political party participating in the election of the time, place and

date thereof. The chair of each political party may be present or may have the chair's accredited representative present.

G. Paper ballots marked by voters, their digitized equivalents and records related to voting are exempt from the Inspection of Public Records Act until forty-five days following any recount, contest or other judicial inquiry or until forty-five days after adjournment of the state or county canvassing board, whichever is later. Any inspection of paper ballots marked by voters, their digitized equivalents or records related to voting shall be conducted in such a manner as to secure the secrecy of the ballot."

Chapter 145 Section 67 Laws 2015

SECTION 67. Section 1-12-71 NMSA 1978 (being Laws 1977, Chapter 222, Section 7) is amended to read:

"1-12-71. RESTRICTION ON LOCAL GOVERNMENT ELECTIONS.--No municipal, school, county or special district election shall be held within fifty days prior to or following any statewide election. This section does not prohibit a local government ballot question authorized by the board of county commissioners from appearing on the general election ballot."

Chapter 145 Section 68 Laws 2015

SECTION 68. Section 1-13-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 312, as amended) is amended to read:

"1-13-9. POST-ELECTION DUTIES--COUNTY CANVASS--VOTING MACHINE RECHECK.--

A. During the official canvass of an election, the county canvassing board, upon written request of any candidate in the election or upon receipt of a written petition of twenty-five voters of the county, shall make, in the presence of the district judge, a recheck and comparison of the results shown on the official returns being canvassed with the results appearing on the alphanumeric printout of the contest, candidates and vote totals of each voting machine used in the election.

B. The necessary corrections, if any, shall be made on the returns, and the results of the election, as shown by the recheck and comparison, shall be declared."

Chapter 145 Section 69 Laws 2015

SECTION 69. Section 1-13-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 316, as amended) is amended to read:

"1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD--CERTIFYING RESULTS.--

A. The county canvassing board shall complete the canvass of the returns and declare the results within ten days from the date of the election. A county canvassing board in a county with more than two hundred fifty thousand voters shall complete the canvass of the returns and declare the results within thirteen days from the date of the election.

B. On the thirty-first day after any primary, general or district special election, the county canvassing board shall issue to those candidates entitled by law election certificates, or certificate of nomination in the case of the primary election, to all county officers, magistrates and to members of the legislature elected from districts wholly within the county. In addition, the county canvassing board shall declare the results, immediately after completion of the canvass, of the election and of all questions affecting only the county.

C. The county canvassing board, immediately after completion of the canvass, shall also certify to the state canvassing board the number of votes cast for all other candidates and questions respectively and shall immediately deliver to the county chair of each political party that participated in the election a certificate showing the total number of votes cast for each candidate in the election in the county."

Chapter 145 Section 70 Laws 2015

SECTION 70. Section 1-13-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 317) is amended to read:

"1-13-14. POST-ELECTION DUTIES--OPENING THE BALLOT BOX.--Once the ballot box has been locked by the precinct board after its first count and tally, no person shall open the ballot box or remove its contents except by court order or as otherwise provided by the Election Code."

Chapter 145 Section 71 Laws 2015

SECTION 71. Section 1-13-21 NMSA 1978 (being Laws 1971, Chapter 317, Section 21, as amended) is amended to read:

"1-13-21. CLEARING VOTING SYSTEMS--TRANSFERRING BALLOTS.--

A. The county clerk shall not clear the votes recorded on the removable storage media devices until at least forty-five days after adjournment of the state canvassing board.

B. The county clerk shall not clear and shall keep locked those removable media storage devices from voting systems used to tabulate votes for precincts where a recount, judicial inquiry or inspection is sought, subject to order of the district court or other authority having jurisdiction of the contest or inspection.

C. Beginning forty-five days after the adjournment of the state or county canvassing board, whichever is later, or forty-five days after completion of a recount or judicial inquiry, the county clerk may transfer ballots from the locked ballot boxes for disposition pursuant to Section 1-12-69 NMSA 1978."

Chapter 145 Section 72 Laws 2015

SECTION 72. Section 1-14-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 339) is amended to read:

"1-14-6. CONTEST OF ELECTION--PRESERVATION OF BALLOTS.--Either the contestant or contestee, within the time provided by the Election Code for the preservation of ballots, may give written notice with delivery confirmation to the county clerk of those counties wherein the contestant or contestee wishes the ballots preserved that a contest is pending in a designated court, and thereupon it is the duty of the county clerk to preserve the ballots of all precincts named in the notice of contest and answer until the contest has been finally determined."

Chapter 145 Section 73 Laws 2015

SECTION 73. Section 1-14-13.2 NMSA 1978 (being Laws 2009, Chapter 233, Section 1) is amended to read:

"1-14-13.2. POST-ELECTION DUTIES--VOTING SYSTEM CHECK.--

A. At least ninety days prior to each general election, 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 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 a 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

Number of precincts in the

state to be tested for that

office

county canvasses

Percent

greater than 15 no precincts for that

office

greater than 14

4

greater than 13

4

greater than 12

5

greater than 11

5

greater than 10

6

greater than 9.0

6

greater than 8.0

7

greater than 7.0

9

greater than 6.0

10

greater than 5.5

11

greater than 5.0

13

greater than 4.5

14

greater than 4.0

16

greater than 3.5

18

greater than 3.0

22

greater than 2.5

26

greater than 2.0

32

greater than 1.8

37

greater than 1.6
42
greater than 1.4
47
greater than 1.2
54
greater than 1.1
59
greater than 1.0
65
greater than 0.9
73
greater than 0.8
82
greater than 0.7
93
greater than 0.6
109
greater than 0.5
130
0.5 or less 165.

C. 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, remove ballots from the selected precincts and compare the original machine count precinct vote totals,

including early absentee and absentee by mail machine count 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. The county clerks shall report their results to the auditor within ten 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 ten days following the conclusion of the recount.

D. 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.

E. 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.

F. Persons designated as county canvass observers may observe the hand recount described in Subsection C of this section. Observers shall comply with the procedures governing county canvass observers as provided in Section 1-2-31 NMSA 1978.

G. 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.

H. All costs of a voting system check or required hand recount shall be paid in the same manner as automatic recounts."

Chapter 145 Section 74 Laws 2015

SECTION 74. Section 1-14-16 NMSA 1978 (being Laws 2008, Chapter 41, Section 3) is amended to read:

"1-14-16. RECOUNT OR RECHECK PROCEEDINGS.--

A. Immediately after filing of the application for recount or recheck, or notice of an automatic recount, the appropriate canvassing board shall issue an order to

the county clerk of each county where a precinct specified in the application or notice is located commanding the county clerk to convene a recount precinct board at the county seat on a day specified in the order, which date shall not be more than ten days after the filing of the application for a recount or recheck or notice of an automatic recount.

B. Upon receipt of the order, the county clerk shall appoint a recount precinct board pursuant to the provisions of Section 1-2-12 NMSA 1978 and shall send notices of the names of the recount precinct board members and the date fixed for the recount or recheck to the district judge for the county and the county chair of each of the political parties that participated in the election for the office in question. The county clerk shall keep a log of how each person was notified and confirmation that the notice was received. Presiding judges and election judges on the recount precinct board shall be appointed from among those persons who served as precinct board members in the most recent election.

C. The recount precinct board, district judge and county clerk shall meet on the date fixed for the recount or recheck, and the ballot boxes and ballot containers or voting machines of the precincts involved in the recount or recheck shall be opened. The recount precinct board shall recount and retally the ballots, or recheck the votes cast on the voting machines, as the case may be, for the office in question in the presence of the county clerk, district judge and any other person who may desire to be present.

D. After completion of the recount or recheck, the recount precinct board shall replace the ballots in the ballot boxes and ballot containers and lock them, or the voting machines shall be locked and resealed, and the precinct board shall certify to the proper canvassing board the results of the recount or recheck. The district judge and the county clerk shall also certify that the recount or recheck was made in their presence."

Chapter 145 Section 75 Laws 2015

SECTION 75. Section 1-14-18 NMSA 1978 (being Laws 1969, Chapter 240, Section 347, as amended) is amended to read:

"1-14-18. RECOUNT--RECHECK--RECANVASS BY CANVASSING BOARDS.--

A. Immediately upon receipt of the certificate of recount or recheck from all the recount precinct boards making a recount or recheck, the proper canvassing board shall meet and recanvass the returns for the office in question.

B. In making the recanvass, the proper canvassing board shall be bound by the certificates of recount or recheck from the recount precinct boards instead of the original returns from the precinct boards.

C. After the recanvass, if it appears that fraud or error has been committed sufficient to change the winner of the election, then the proper canvassing board shall revoke the certificate of nomination or election already issued to any person for that office and shall issue a certificate of nomination or election in favor of the person receiving a plurality of the votes cast at the election as shown by the recount or recheck, and such certificate shall supersede all others and entitle the holder to the same rights and privileges as if such certificate had been originally issued by the canvassing board."

Chapter 145 Section 76 Laws 2015

SECTION 76. Section 1-14-19 NMSA 1978 (being Laws 1969, Chapter 240, Section 348, as amended) is amended to read:

"1-14-19. RECOUNT--RECHECK--CANDIDATE FOR DISTRICT JUDGE.--If a recount or recheck is demanded on the election of a district judge and the judge of the district was a candidate for partisan office at the election, the chief justice of the supreme court shall designate a district judge who shall act in such proceedings."

Chapter 145 Section 77 Laws 2015

SECTION 77. Section 1-14-23 NMSA 1978 (being Laws 2007, Chapter 337, Section 2) is amended to read:

"1-14-23. RECOUNT PROCEDURES.--

A. To ensure the accuracy of electronic vote tabulating systems, in a recount, the votes from a random selection of ballots shall be tallied by hand, and the votes from the same ballots shall be tabulated by the electronic vote tabulating systems to be used in the recount. For statewide and federal office, the number of ballots to be tallied and tabulated shall be equal to the greater of one hundred, or two percent, of the ballots cast in each county. For all other offices, the number of ballots to be tallied and tabulated shall be equal to the greater of one hundred, or five percent, of the ballots cast for the office, distributed by county where applicable. If more than one electronic vote tabulating system is to be used in a county, the ballots to be recounted shall be divided among the electronic vote tabulating systems to be used, and the above process shall be performed on each electronic vote tabulating system based on the number of votes to be recounted on each individual electronic vote tabulating system.

B. If the results of the hand tally and the electronic vote tabulating system tabulation do not differ, the remaining ballots shall be recounted using that electronic vote tabulating system. If the results of the hand tally and the electronic vote tabulating system differ, the electronic vote tabulating system shall not be used in the recount and the remaining ballots shall be recounted by hand or on a different electronic vote tabulating system in which the results did not differ.

C. When using an electronic vote tabulating system for a recount, a county clerk may permit a visual inspection of the ballots prior to tabulation by the optical scan tabulating system for the purpose of permitting a representative of a candidate to identify individual ballots to be selected for hand tally by the precinct board."

Chapter 145 Section 78 Laws 2015

SECTION 78. Section 1-14-24 NMSA 1978 (being Laws 2008, Chapter 41, Section 1) is amended to read:

"1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND FEDERAL OFFICES--PROCEDURES.--

A. An automatic recount of the vote is required when the canvass of returns in a primary or general election for a federal or statewide office, or a judicial office in a county with more than two hundred thousand registered qualified electors, indicates that the margin between the two candidates receiving the greatest number of votes for the office is less than one-fourth of one percent of the total votes cast for that office in that election. An automatic recount of the vote is required when the canvass of returns in a primary or general election for any other state office indicates that the margin between the two candidates receiving the greatest number of votes for the office is less than one percent of the total votes cast for that office in that election.

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.

D. For the purposes of this section, "state office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, secretary of state, supreme court justice, court of appeals judge, district judge, magistrate judge, public regulation commissioner, commissioner of public lands, state senator or state representative."

Chapter 145 Section 79 Laws 2015

SECTION 79. Section 1-22-2 NMSA 1978 (being Laws 1985, Chapter 168, Section 4, as amended) is amended to read:

"1-22-2. DEFINITIONS.--As used in the School Election Law:

A. "board" means the governing authority of the school district;

B. "county clerk" means the clerk of each county in which the school district is situate;

C. "proper filing officer" means the county clerk or, in the case of a multicounty school district, the clerk of the county in which the administrative office of the school district is situate;

D. "magistrate" means the magistrate whose office is situated in the municipality where the administrative office of the school district is located or in close proximity to the municipality;

E. "school district election" means a regular or special school district election but does not include a recall election; and

F. "superintendent" means the superintendent of schools of the school district."

Chapter 145 Section 80 Laws 2015

SECTION 80. Section 1-22-3 NMSA 1978 (being Laws 1985, Chapter 168, Section 5, as amended) is amended to read:

"1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF

CANDIDATES.--

A. A school district election shall be held in each school district to elect qualified persons to membership on a board. No person shall become a candidate for membership on a board unless the person's record of voter registration shows that the person is a qualified elector of the state, physically resides in the school district in which the person is a candidate and was registered to vote in the district on the date the board's proclamation calling a regular school district election is filed in the office of the county clerk.

B. A regular school district election shall be held in each school district on the first Tuesday in February of each odd-numbered year.

C. An election on a ballot question held at any time other than the date for the regular school district election shall be a special school district election called, conducted and canvassed as provided in the Election Code.

D. Except as otherwise provided in the School Election Law, school district elections shall be called, conducted and canvassed as provided in the Election Code."

Chapter 145 Section 81 Laws 2015

SECTION 81. Section 1-22-5 NMSA 1978 (being Laws 1985, Chapter 168, Section 7, as amended) is amended to read:

"1-22-5. SPECIAL ELECTION--PROCLAMATION--PUBLICATION.--

A. Whenever a special school district election is to be called or is required by law, the board shall by resolution issue a public proclamation in Spanish and English calling the election. The proclamation shall forthwith be filed by the superintendent with the proper filing officer.

B. The proclamation shall specify:

(1) the date on which the special election will be held;

(2) the questions to be submitted to the voters;

(3) the precincts in each county in which the election is to be held and the location of each polling place;

(4) the hours each polling place will be open; and

(5) the date and time of the closing of the registration books by the proper filing officer as required by law.

C. After filing the proclamation with the proper filing officer and not less than fifty days before the date of the election, the proper filing officer shall publish the proclamation at least twice in a newspaper of general circulation in the school district. The publication of the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended."

Chapter 145 Section 82 Laws 2015

SECTION 82. Section 1-22-6 NMSA 1978 (being Laws 1985, Chapter 168, Section 8, as amended) is amended to read:

"1-22-6. PRECINCTS--CONSOLIDATION--POLLING PLACES.--

A. The same precincts that are used in a general election shall be used in a school district election, provided that:

(1) if a precinct lies partly within and partly outside of a school district, the part of the precinct lying within the school district constitutes a precinct for a school district election; and

(2) all of the area within the exterior boundaries of a school district may constitute one precinct for a school district election.

B. In the event that only one candidate has filed a declaration of candidacy for each position to be filled at an election and no declared write-in candidates have filed for any position and there are no questions or bond issues on the ballot, only one polling place for the election shall be designated and it shall be in a designated polling place in the school district of the county in which the school district is located, which may include the county clerk's office if it is located within the school district.

C. Except as otherwise provided in the School Election Law, the county clerk shall consolidate precincts for a school district election as provided in the proclamation for that election and shall provide for a polling place within each precinct or consolidated precinct. A consolidated precinct in a school district election shall be composed of no more than twenty precincts."

Chapter 145 Section 83 Laws 2015

SECTION 83. Section 1-22-7 NMSA 1978 (being Laws 1985, Chapter 168, Section 9, as amended) is amended to read:

"1-22-7. DECLARATION OF CANDIDACY--FILING DATE--PENALTY.--

A. A candidate for a board position that will be filled at a regular school district election shall file a declaration of candidacy with the proper filing officer during the period commencing at 9:00 a.m. on the third Tuesday in December of the even-numbered year immediately preceding the date of the regular school district election and ending at 5:00 p.m. on the same day.

B. A candidate shall file for only one board position during a filing period.

C. 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 145 Section 84 Laws 2015

SECTION 84. Section 1-22-8 NMSA 1978 (being Laws 1985, Chapter 168, Section 10, as amended) is amended to read:

"1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF INTENT--
FORM.--In making a declaration of candidacy, the candidate shall submit a sworn
statement of intent in substantially the following form:

"DECLARATION OF CANDIDACY--STATEMENT OF INTENT

I, _____, (candidate's name on certificate of registration)
being first duly sworn, say that I am a voter of Precinct No. _____
of the county of _____, State of New Mexico. I reside at

and was registered to vote at that place on the date the school board's proclamation
calling the election was filed in the office of the county clerk;

I am a qualified elector of the State of New Mexico residing within
_____ school district;

I desire to become a candidate for the office of School Board Position No.
_____ at the school district election to be held on the date set by
law;

I will be eligible and legally qualified to hold this office at the beginning of its term;
and

I make the foregoing affidavit under oath, knowing that any false statement
herein constitutes a felony punishable under the criminal laws of New Mexico.

(Declarant)

(Mailing Address)

(Residence Address)

Subscribed and sworn to before me this _____ day of
_____, 20 _____.

_____.

(Notary Public)

My commission expires:

_____". "

Chapter 145 Section 85 Laws 2015

SECTION 85. Section 1-22-12 NMSA 1978 (being Laws 1985, Chapter 168, Section 14, as amended) is amended to read:

"1-22-12. CONDUCT OF ELECTIONS.--

A. Except as otherwise provided in the School Election Law, the county clerk shall administer and conduct school district elections pursuant to the provisions of the Election Code for the conduct of general elections.

B. Precinct board members for each polling place shall be appointed by the county clerk from among those persons who meet the qualifications set forth in Section 1-2-7 NMSA 1978 and who reside within the school district. The number of members on each precinct board shall be as provided in Section 1-2-12 NMSA 1978. Vacancies on election day shall be filled as provided in Section 1-2-15 NMSA 1978.

C. In the event that only one candidate has filed a declaration of candidacy for each position to be filled at the election, no declared write-ins have filed for any position and there are no questions or bond issues on the ballot, the county clerk may perform the duties of the precinct board at the request of the school district.

D. All costs of school district elections shall be paid by the school district."

Chapter 145 Section 86 Laws 2015

SECTION 86. Section 1-22-19 NMSA 1978 (being Laws 1985, Chapter 168, Section 21, as amended) is amended to read:

"1-22-19. ABSENTEE VOTING.--

A. A voter may vote in a school district election by absentee ballot for all candidates and on all questions appearing on the ballot in the voter's precinct as if the voter were casting the ballot in person at the polling place on election day.

B. The provisions of the Absent Voter Act apply to absentee voting in school district elections, provided that absentee ballots may be marked in person during the regular hours and days of business at the county clerk's office from 8:00 a.m. on the twenty-fifth day preceding the election until 5:00 p.m. on the Friday immediately prior to the date of the election. Absentee ballots shall be printed at least thirty days prior to the

date of the election. In addition, provisions may be made by the board in the proclamation for absentee voting by electronic voting machine at alternate voting locations at any time beginning on the twentieth day preceding an election through the Saturday immediately prior to the date of the election.

C. A regular precinct board may be designated to serve as the absent voter precinct board. A member of the absent voter precinct board shall receive the same compensation as a regular precinct board member. A regular precinct board member who also serves as a member of the absent voter precinct board shall not be entitled to extra compensation for serving on the absent voter precinct board."

Chapter 145 Section 87 Laws 2015

SECTION 87. Section 3-9-1 NMSA 1978 (being Laws 1973, Chapter 375, Section 2, as amended) is amended to read:

"3-9-1. DEFINITIONS.--As used in Chapter 3, Article 9 NMSA 1978:

A. "absentee voting" means the casting of a vote by a qualified elector for any candidate or question prior to election day;

B. "early voter" means a voter who votes in person before election day, and not by mail;

C. "election" means a regular or special municipal election;

D. "federal qualified elector" means:

(1) a uniformed-service voter; or

(2) an overseas voter;

E. "immediate family" means a person's spouse, children, parents, brothers and sisters;

F. "overseas voter" means an individual who is a United States citizen, who is outside the United States and who:

(1) is temporarily absent from the individual's residence in this state;

(2) before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;

(3) before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or

(4) was born outside the United States, is not otherwise described in this subsection and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:

(a) the last place where a parent or legal guardian of the individual was, or under the Municipal Election Code would have been, eligible to vote before leaving the United States is within this state; and

(b) the individual has not previously registered to vote in any other state;

G. "uniformed-service voter" means an individual whose voting residence is in this state, who otherwise satisfies this state's voter eligibility requirements and who is:

(1) a member of the active or reserve components of the army, navy, air force, marine corps or coast guard of the United States who is on active duty and who by reason of that active duty is absent from the state;

(2) a member of the merchant marine, the commissioned corps of the United States public health service, the astronaut program of the national aeronautics and space administration or the commissioned corps of the national oceanic and atmospheric administration of the United States and who by reason of that service is absent from the state;

(3) a member on activated status of the national guard or state militia and who by reason of that active duty is absent from the member's county of residence; or

(4) a spouse or dependent of a member referred to in Paragraph (1), (2) or (3) of this subsection and who, by reason of active duty or service of the member, is absent from the state; provided the spouse or dependent is an individual recognized as a spouse or dependent by the entity under which the member is serving; and

H. "voter" means a qualified elector of the municipality."

Chapter 145 Section 88 Laws 2015

SECTION 88. Section 3-9-3 NMSA 1978 (being Laws 1973, Chapter 375, Section 1, as amended) is amended to read:

"3-9-3. ABSENTEE VOTING--REGULAR OR SPECIAL MUNICIPAL ELECTIONS--RIGHT TO VOTE.--

A. Any voter entitled to vote in the municipal election may vote by absentee ballot for all candidates and on all questions appearing on the ballot at such regular or special election at the voter's assigned polling place, as if the voter were able to cast a ballot in person at such polling place.

B. A federal qualified elector entitled to vote in the municipal election may vote in a municipal election pursuant to the provisions of the Uniform Military and Overseas Voters Act.

C. The provisions of this section shall also apply to a regular or special municipal election held in conjunction with any other political subdivision."

Chapter 145 Section 89 Laws 2015

SECTION 89. Section 3-9-4 NMSA 1978 (being Laws 1973, Chapter 375, Section 3, as amended) is amended to read:

"3-9-4. ABSENTEE BALLOT APPLICATION--REJECTION--ACCEPTANCE--ISSUANCE OF ABSENTEE BALLOT.--

A. The municipal clerk shall prescribe the form of the absentee ballot application.

B. An application for an absentee ballot may be obtained from the municipal clerk.

C. Upon receipt of a properly completed and delivered application for an absentee ballot, the municipal clerk shall contact the county clerk to determine if the applicant is a qualified elector of the municipality.

D. The municipal clerk shall reject an absentee ballot application for any of the following reasons:

(1) the application is not made on the form provided by the municipal clerk;

(2) the application does not set forth the applicant's full name and address;

(3) the application does not set forth the applicant's date of birth;

(4) the application is not signed by the applicant; or

(5) the applicant:

(a) has no valid affidavit of registration on file with the county clerk; or

(b) has a valid affidavit of registration on file with the county clerk, but is not a resident of the municipality; and

(c) cannot comply with Subparagraph (a) or (b) of this paragraph pursuant to Subsection B of Section 3-8-40 NMSA 1978.

E. If the municipal clerk rejects an absentee ballot application pursuant to Subsection D of this section, the municipal clerk shall mark the application "rejected", enter "rejected" in the absentee ballot register and file the application in a separate file. The municipal clerk shall, within twenty-four hours of rejection of the application, notify the applicant in writing of the reasons for rejection of the application. If the application is incomplete, the municipal clerk shall immediately mail a new application for an absentee ballot.

F. If the application for absentee ballot is accepted, the municipal clerk shall:

(1) mark the application "accepted";

(2) enter the required information in the absentee ballot register;
and

(3) issue to the applicant an absentee ballot.

G. The municipal clerk shall deliver the absentee ballot to the applicant in the office of the municipal clerk if the application for absentee ballot has been accepted and if the application is submitted in person by the applicant or mail an absentee ballot to any qualified elector whose application for an absentee ballot was received by mail and has been accepted. The municipal clerk shall notify the county clerk who shall write "absentee ballot" on the signature line of the signature roster next to the name of the person who has been sent an absentee ballot. Names of individuals that have been labeled "absentee ballot" shall appear on a separate list called the "absentee voter list". This list shall be submitted to the municipal clerk by the county clerk in the same manner as provided in Subsection B of Section 3-8-7 NMSA 1978.

H. It is the duty of the municipal clerk to verify the signature roster and absentee voter list to ensure that all names of individuals who have been issued absentee ballots have been labeled "absentee ballot" on the signature roster and their names listed on the absentee voter list. If not, the municipal clerk shall write "absentee ballot" on the signature line of the signature roster next to the name of the person who

has been sent an absentee ballot. The municipal clerk shall then enter the name and all required information on the absentee voter list.

I. If the application for an absentee ballot is delivered in person to the municipal clerk during regular hours and days of business and is accepted, the municipal clerk shall issue the voter the absentee ballot and it shall be marked by the applicant in a voting booth in the municipal clerk's office, sealed in the proper envelopes and otherwise properly executed and returned to the municipal clerk or the clerk's authorized representative before the applicant leaves the office of the municipal clerk.

J. The act of marking the absentee ballot in the office of the municipal clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the municipal clerk a polling place subject to the requirements of a polling place in the Municipal Election Code other than as provided in this subsection. During the period of time between the date a person may first apply in person for an absentee ballot and the final date for such application and marking of the ballot in the office of the municipal clerk, it is unlawful to solicit votes or display or otherwise make accessible any posters, signs or other forms of campaign literature whatsoever in the clerk's office.

K. Absentee ballots shall be issued to voters whose applications have been approved not earlier than thirty-five days prior to the election and not later than 5:00 p.m. on the Friday immediately prior to the date of the election.

L. No absentee ballot shall be delivered or mailed by the municipal clerk to any person other than the applicant for such ballot."

Chapter 145 Section 90 Laws 2015

SECTION 90. Section 3-9-5 NMSA 1978 (being Laws 1973, Chapter 375, Section 6, as amended) is amended to read:

"3-9-5. ABSENTEE BALLOT REGISTER.--

A. For each election, the municipal clerk shall keep an "absentee ballot register" in which the clerk shall enter:

(1) in numerical sequence, the name and municipal address of each absentee ballot applicant;

(2) the date and time of receipt of the application;

(3) whether the application was accepted or rejected;

(4) the date of delivery to the voter in person in the office of the municipal clerk, or mailing of an absentee ballot to the applicant, the method of delivery and, if mailed, the address to which the ballot was mailed;

(5) the applicant's precinct and district number, if applicable;

(6) whether the applicant is a voter, and whether the voter is a uniformed-service voter or an overseas voter;

(7) affidavits of voters who did not receive absentee ballots; and

(8) the date and time the completed ballot was received from the applicant by the municipal clerk.

B. The absentee ballot register is a public record open to public inspection in the municipal clerk's office during regular office hours and shall be preserved for two years after the date of the election. The municipal clerk shall have an updated absentee ballot register available for public inspection Monday through Friday during regular office hours."

Chapter 145 Section 91 Laws 2015

SECTION 91. Section 3-9-6 NMSA 1978 (being Laws 1973, Chapter 375, Section 7, as amended) is amended to read:

"3-9-6. FORM OF ABSENTEE BALLOT--FORM OF ABSENTEE BALLOT ENVELOPES.--

A. The form of the absentee ballot shall be, as nearly as practicable, in the same form as prescribed by the municipal clerk for other ballots. However, to reduce weight and bulk for transport of absentee ballots, the size and weight of the paper for envelopes, ballots and instructions shall be reduced as much as is practicable. The ballots shall provide for sequential numbering.

B. Absentee ballots and envelopes shall be delivered by the printer to the municipal clerk not later than thirty-five days prior to the date of the election to be held.

C. The municipal clerk shall prescribe the form of:

(1) official inner envelopes for use in sealing the completed absentee ballot;

(2) official mailing envelopes for use in returning the official inner envelope to the municipal clerk;

(3) absentee ballot instructions, describing proper methods for completion of the ballot and returning it; and

(4) official transmittal envelopes for use by the municipal clerk in mailing absentee ballot materials.

D. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the municipal clerk and federal qualified electors shall be as prescribed in the Uniform Military and Overseas Voters Act. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the municipal clerk shall be printed in green in substantially similar form. All official inner envelopes shall be printed in green.

E. The reverse of each official mailing envelope shall contain a form to be signed by the person completing the absentee ballot. The form shall identify the person and shall contain the following statement: "I will not vote in this election other than by the enclosed ballot. I will not receive or offer any compensation or reward for giving or withholding any vote."."

Chapter 145 Section 92 Laws 2015

SECTION 92. Section 3-9-7 NMSA 1978 (being Laws 1973, Chapter 375, Section 8, as amended) is amended to read:

"3-9-7. MANNER OF VOTING--USE OF AN ELECTRONIC VOTING DEVICE.--

A. Any person voting an absentee ballot under the provisions of the Municipal Election Code shall secretly mark the ballot as instructed on the ballot, place the marked ballot 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.

B. A voter, caregiver to that voter or member of that voter's immediate family may deliver that voter's absentee ballot to the municipal clerk in person or by mail, provided that the voter has subscribed the outer envelope of the absentee ballot.

C. When an electronic voting device is used by the voter to cast an absentee vote, the municipal clerk shall ensure that each absentee voting machine is located within the office of the municipal clerk. The area shall be secured by lock and key. Each day during the time the absentee voting machine is used for absentee voting, the municipal clerk shall, in the presence of one other employee of the municipality, unlock the office where the voting machine is located. Each day, at the close of regular office hours, the municipal clerk shall, in the presence of one other municipal employee, secure the office where the voting machine is located. Each day immediately after unlocking or locking the office where the voting machine is located, the municipal clerk

and the employee present shall sign or initial the absentee voting daily report. The municipal clerk shall prescribe the form of the absentee voting daily report, which shall include the following information:

- (1) the voting machine serial number;
- (2) the beginning and ending public counter number for the day;
- (3) the beginning and ending protective counter number for the day;
- (4) the closing seal number, if any;
- (5) the total number of voters for the day; and
- (6) a place for the date and signature of the municipal clerk and the municipal employee.

D. Voting shall be conducted substantially in the manner provided in the Municipal Election Code. The absentee voting daily report shall be submitted to the absent voter precinct on election day, along with any voting machines used."

Chapter 145 Section 93 Laws 2015

SECTION 93. Section 3-9-8 NMSA 1978 (being Laws 1973, Chapter 375, Section 9, as amended) is amended to read:

"3-9-8. CARE OF ABSENTEE BALLOTS--DESTRUCTION OF UNUSED BALLOTS BY MUNICIPAL CLERK.--

A. The municipal clerk shall mark on each completed official outer envelope the date and time of receipt in the municipal clerk's office, record this information in the absentee ballot register and safely and securely keep the official outer envelope unopened until it is delivered on election day to the proper precinct board or until it is canceled and destroyed in accordance with law. Once a ballot is officially accepted by the municipal clerk and recorded in the absentee ballot register, it cannot be returned to the voter for any reason.

B. The municipal clerk shall accept completed official outer envelopes received by mail or delivered in person to the municipal clerk's office by the voter signing the official outer envelope, by a member of the voter's immediate family or by the caregiver to the voter until

7:00 p.m. on election day. Any completed outer envelope received after that time and date shall be marked as to the time and date received, shall not be delivered to the precinct board and shall be preserved until the time for election contests has expired. In the absence of a court order, after the expiration of the time for election contests, the

municipal clerk shall destroy all late official mailing envelopes without opening or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the municipal clerk shall count the numbers of late ballots from voters, uniformed-service voters and overseas voters and record the number from each category in the absentee ballot register.

C. After 5:00 p.m. and not later than 8:00 p.m. on the Friday immediately preceding the date of the election, the municipal clerk shall record the numbers of the unused absentee ballots and shall publicly destroy in the municipal clerk's office all unused ballots. The municipal clerk shall execute a certificate of such destruction, which shall include the numbers on the ballots destroyed, and the certificate shall be placed within the absentee ballot register.

D. At 7:00 p.m. on the day of the election, the municipal clerk shall determine the number of ballots that were mailed and have not been received and execute a "certificate of unreceived absentee ballots". The certificate shall be placed in the absentee ballot register and shall become an official part of the register. The municipal clerk shall determine the form of the certificate of unreceived absentee ballots."

Chapter 145 Section 94 Laws 2015

SECTION 94. Section 3-9-11 NMSA 1978 (being Laws 1985, Chapter 208, Section 99, as amended) is amended to read:

"3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER PRECINCT BOARDS.--

A. Before opening any official mailing envelope, an election judge shall determine that the required signature has been executed on the reverse side of the official mailing envelope.

B. If the signature is missing, an election judge shall write "rejected" on the front of the official mailing envelope. The election clerks shall write the notation "rejected -- missing signature" in the "notations" column on the absentee voter list. An election judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots, seal the envelope, write the voter's name on the front of the envelope and deposit it in the locked ballot box.

C. Declared challengers certified by the municipal clerk may examine the official mailing envelope and may challenge the ballot of any absent voter for the following reasons:

(1) the official mailing envelope has been opened prior to being received by the absent voter precinct board;

(2) the person offering to vote is not a voter as provided in the Municipal Election Code; or

(3) the person offering to vote is not a federal qualified elector authorized to vote in a municipal election.

Upon the challenge of an absentee ballot, an election judge shall generally follow the same procedure as when ballots are challenged when a person offers to vote in person. If a challenged ballot is not to be counted, it shall not be opened and shall be placed in an envelope provided for challenged ballots.

D. If the official mailing envelopes have properly executed signatures and the voters have not been challenged:

(1) an election judge shall open the official mailing envelopes and deposit the ballots in their still sealed official inner envelopes in the locked ballot box; and

(2) the election clerks shall mark the notation "AB" opposite the voter's name in the "notations" column of the absentee voter list.

E. Prior to the closing of the polls, an election judge may remove the absentee ballots from the official inner envelopes and either count and tally the results of absentee balloting by hand or register the results of each absentee ballot on a voting machine the same as if the absent voter had been present and voted in person. It shall be unlawful for any person to disclose the results of such count and tally or such registration on a voting machine of absentee ballots prior to the closing of the polls.

F. The municipal clerk shall, prior to the opening of the polls on election day, notify the absent voter precinct board in writing whether absentee ballots are to be counted and tallied or registered on a voting machine. The procedures shall be such as to ensure the secrecy of the ballot.

G. Absent voter precinct polls shall be closed at 7:00 p.m. on the day of the election by the absent voter precinct board."

Chapter 145 Section 95 Laws 2015

SECTION 95. Section 22-5-3 NMSA 1978 (being Laws 1969, Chapter 103, Section 2, as amended) is amended to read:

"22-5-3. SCHOOL BOARD MEMBERSHIP--OPTIONAL FORM.--

A. The local school board of any school district in this state may by resolution provide for the local board of that district to be composed of seven qualified electors of the state who reside within the district. The resolution shall provide that the

board consist of seven separate positions, and each such position shall be designated by number. Qualified electors seeking election to the school board shall file and run for only one of the numbered positions.

B. If the resolution provided for in this section is adopted, it shall go into effect within thirty days after its adoption unless a petition signed by the qualified electors of the school district in a number equal to twenty percent of all the voters in the district voting at the last regular school board election is presented to the local board within such thirty days asking that an election be held on the question of increasing the membership of the local board to seven members.

C. Upon receipt and verification of the petition, the local school board shall within thirty days call a special school election to vote upon the question of increasing the membership of the local school board in that district to seven members.

D. If the voters of the school district approve the increase in the local school board's membership to seven members, the resolution shall be in effect.

E. A resolution adopted pursuant to Subsection A of this section shall conform to the requirements of Section 1-22-5 NMSA 1978 and shall provide for the election of two additional school board members at the next regular school district election. One new member shall be elected to serve until the first regular school board election following the member's election. The second new member shall be elected to serve until the second regular school board election following the member's election. Thereafter, persons elected to fill the additional new positions on the board shall be elected for terms as provided by law."

Chapter 145 Section 96 Laws 2015

SECTION 96. Section 22-5-3.1 NMSA 1978 (being Laws 1981, Chapter 302, Section 1) is amended to read:

"22-5-3.1. LOCAL SCHOOL BOARDS--REVERSION TO FIVE MEMBERS.--

A. Any seven-member local school board of a school district in the state may by resolution provide for the local school board of that school district to be composed of five qualified electors of the state who reside within the school district.

B. If the resolution specified in Subsection A of this section is adopted, the existing local school board at the first election at which the terms of three members expire shall by lot:

(1) eliminate two positions if the next succeeding election is one at which the terms of two members expire;

(2) eliminate two positions if the next succeeding election is one at which the term of one member expires, and at the next election at which the terms of three members expire designate one position for a two-year term; provided that thereafter all terms shall be four-year terms; or

(3) eliminate two positions if the next succeeding election is one at which the terms of three members expire, and at the succeeding election designate one position for a two-year term; provided that thereafter all terms shall be four-year terms.

C. Any resolution adopted pursuant to the provisions of this section shall be effective thirty days after its adoption unless a petition signed by the qualified electors of the school district in a number equal to at least twenty percent of all voters in the school district voting at the last regular school board election is presented to the local school board on or before the thirtieth day asking that an election be held on the question of decreasing the membership of the local school board to five members.

D. Upon receipt and verification of the petition, the local school board shall within thirty days call a special election to vote upon the question of decreasing the membership of the local school board in that school district to five members.

E. If the voters of the school district approve the decrease in the local school board's membership to five members, the resolution shall be in effect, and the elimination of two members at subsequent elections as provided in Subsection B of this section shall be valid."

Chapter 145 Section 97 Laws 2015

SECTION 97. Section 22-5-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 32, as amended) is amended to read:

"22-5-9. LOCAL SCHOOL BOARD VACANCIES.--

A. A vacancy occurring in the membership of a local school board shall be filled at an open meeting, at which a quorum of the membership is present, by a majority vote of the remaining members appointing a qualified elector to fill the vacancy.

B. A qualified elector appointed to fill a vacancy occurring in the membership of a local school board shall hold that office until the next regular school district election when an election shall be held to fill the vacancy for the unexpired term.

C. If a qualified elector is not appointed to fill the vacancy within forty-five days from the date the vacancy occurred, the department shall appoint a qualified elector to fill the vacancy until the next regular school district election.

D. In the event vacancies occur in a majority of the full membership of a local school board, the department shall appoint qualified electors to fill the vacancies.

Those persons appointed shall hold office until the next regular school district election when an election shall be held to fill the vacancies for the unexpired terms."

Chapter 145 Section 98 Laws 2015

SECTION 98. Section 22-7-13 NMSA 1978 (being Laws 1977, Chapter 308, Section 13, as amended) is amended to read:

"22-7-13. SPECIAL RECALL ELECTION.--

A. The date of the special recall election shall be set no later than one hundred twenty days after the date of the determination by the county clerk but in no event shall the election be held within the period of time prohibited for local government elections pursuant to Section 1-12-71 NMSA 1978.

B. The question to be submitted to the voters at the special recall election shall be whether the named member shall be recalled.

C. A special recall election may be held in conjunction with a regular or a special school district election.

D. Whenever a special recall election is called, the county clerk shall give public notice of the special recall election by publishing information regarding the election once each week for four consecutive weeks. The first publication of the information shall be made between

forty-five and sixty days before the date of the special recall election. Information regarding the election shall be in compliance with the federal Voting Rights Act of 1965, as amended, and shall include the date when the special recall election will be held, the question to be submitted to the voters, a brief description of the boundaries of each precinct, the location of each polling place, the hours each polling place will be open and the date and time of the closing of the registration books by the county clerk as required by law.

E. The ballot shall be in compliance with the federal Voting Rights Act of 1965, as amended, and shall present the voter the choice of voting "for the removal of the named member" or "against the removal of the named member".

F. All special recall elections shall be held in compliance with the federal Voting Rights Act of 1965, as amended.

G. Except as otherwise provided in the Local School Board Member Recall Act, special recall elections in a school district shall be conducted as provided in the Election Code."

Chapter 145 Section 99 Laws 2015

SECTION 99. Section 27-5-9 NMSA 1978 (being Laws 1965, Chapter 234, Section 9, as amended) is amended to read:

"27-5-9. TAX LEVIES AUTHORIZED.--

A. Subject to the provisions of Subsection B of this section, the board of county commissioners, upon the certification of the county as to the amount needed to provide health care to indigent residents of the county or to support the state's medicaid program, shall impose a levy against the net taxable value, as that term is defined in the Property Tax Code, of the property in the county sufficient to raise the amount certified by the county.

B. The question of imposing an indigent and medicaid health care levy for the purpose of the Indigent Hospital and County Health Care Act shall be submitted to the electors and voted upon as a separate question at the next subsequent general election or any special election called prior thereto for such purpose.

C. Upon finding by the board of county commissioners that an election will be necessary, the board of county commissioners shall meet and order an election to be held at a designated time in the county upon the question of imposing an indigent and medicaid health care levy for the purpose of the Indigent Hospital and County Health Care Act in the county. If the question is to be voted upon at a special election, the election shall be held not less than thirty nor more than fifty days after the finding, but in no event shall the election be held within fifty days preceding or succeeding any general election held in the county. The order for the election shall be made a part of the official minutes of the board of county commissioners. A copy of the order shall be published in a newspaper of general circulation in the county at least fifteen days before the date set for the election, and an affidavit of publication shall be obtained. At least five days prior to the date for holding the election, the board of county commissioners shall publish in a newspaper of general circulation in the county and post in five conspicuous places in the county a notice of election, which shall be in substantially the following form:

"NOTICE OF ELECTION ON SPECIAL INDIGENT

AND MEDICAID HEALTH CARE LEVY

Notice is given on the _____ day of _____, 20_____, there will be held in _____ county of New Mexico an election on the question of imposing an indigent and medicaid health care levy to provide health care to indigent residents of the county or to support the state's medicaid program, such levy to be made annually against the taxable value of the property in the county and limited to an amount sufficient to provide funds necessary to support the state's medicaid program or to provide health care to indigent residents of the county who do not qualify for medicaid.

Official Title of the Authority".

The election shall be held on the date specified in the notice and shall be, if a special election, conducted and canvassed in substantially the same manner as general elections are conducted and canvassed in the county; provided that the ballot used in any election shall be a special and separate ballot and shall be in substantially the following form:

On the question of imposing an indigent and medicaid health care levy for the purposes of the Indigent Hospital and County Health Care Act, such levy to be made annually against the taxable value of the property in _____ county of New Mexico, and limited to an amount sufficient to provide funds budgeted and certified as necessary for health care for indigent residents of the county in addition to those services provided by the state or to support the state's medicaid program:

FOR THE LEVY.....

AGAINST THE LEVY.....".

D. If the electors vote in favor of an indigent and medicaid health care levy, the levy shall become effective in the same manner prescribed by law for all levies upon property within that county, and a levy for those purposes in such an amount as will provide sufficient money for the fund shall be made for each year thereafter.

E. Any board of county commissioners that has, prior to the effective date of this section, made a valid imposition of a property tax for the purpose of the Indigent Hospital and County Health Care Act shall not be required to hold an election on the existing tax, and that tax may be imposed and continue to be imposed in accordance with the provisions of law existing at the time of its imposition. However, if any such tax is not imposed in a given property tax year or if the authorization for its imposition terminates or expires, the election requirements of Subsections B and C of this section shall apply to any subsequent proposed imposition of a property tax for indigent health care for county residents or to support the state's medicaid program."

Chapter 145 Section 100 Laws 2015

SECTION 100. TEMPORARY PROVISION.--The Uniform Military and Overseas Voters Act shall be compiled as a separate article in the Election Code.

Chapter 145 Section 101 Laws 2015

SECTION 101. REPEAL.--Sections 1-6-2, 1-6-4.1, 1-6-4.2, 1-6-5.1, 1-6-18.1 and 3-9-2 NMSA 1978 (being Laws 1987, Chapter 327, Sections 6 and 9, Laws 2003, Chapter 355,

Section 1, Laws 1991, Chapter 105, Section 10, Laws 2003, Chapter 356, Section 8 and Laws 1973, Chapter 375, Section 4, as amended) are repealed.

Chapter 145 Section 102 Laws 2015

SECTION 102. APPLICABILITY.--The Uniform Military and Overseas Voters Act is applicable to any federal postcard application received as of the first day of the current election cycle.

Chapter 145 Section 103 Laws 2015

SECTION 103. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 34 and 36 through 102 of this act is July 1, 2015.

B. The effective date of the provisions of Section 35 of this act is January 1, 2018."

SJC/Senate Bill 643, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 146

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; CHANGING THE ADMINISTRATIVE FEE FOR CAPITAL PROJECTS AND REMOVING THE GEOGRAPHICAL RESTRICTION OF SANTA FE COUNTY.

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

Chapter 146 Section 1 Laws 2015

SECTION 1. Section 15-3B-10 NMSA 1978 (being Laws 2001, Chapter 319, Section 10) is amended to read:

"15-3B-10. CAPITAL PROJECTS--ADMINISTRATIVE FEES.--The cost of a capital project shall include an administrative fee to cover the cost of administering the capital project. The fee shall be three percent of the appropriated amount of a capital project."

SFC/Senate Bill 723, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 147

AN ACT

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING OR CHANGING PURPOSES, EXTENDING EXPENDITURE PERIODS, CHANGING AGENCIES AND ESTABLISHING CONDITIONS FOR THE REVERSION 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 147 Section 1 Laws 2015

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 147 Section 2 Laws 2015

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 147 Section 3 Laws 2015

SECTION 3. PARADISE HILLS COMMUNITY CENTER GYMNASIUM HARDWOOD FLOORING--CHANGE TO EQUIPPING A FACILITY IN BERNALILLO COUNTY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 10 of Section 22 of Chapter 66 of Laws 2014 for hardwood flooring in the Paradise Hills community center gymnasium in

Bernalillo county shall not be expended for the original purpose but is changed to purchase and install equipment at a county facility in Bernalillo county.

Chapter 147 Section 4 Laws 2015

SECTION 4. BERNALILLO COUNTY CORRECTIONAL FACILITY--CHANGE TO METROPOLITAN DETENTION CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 23 of Section 16 of Chapter 64 of Laws 2012 for a correctional facility in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct and equip improvements to the metropolitan detention center in Bernalillo county. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 5 Laws 2015

SECTION 5. BERNALILLO COUNTY MOBILE FOOD UNITS--CHANGE TO MOBILE FOOD EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 51 of Section 31 of Chapter 226 of Laws 2013 to purchase, install and equip mobile food units in Bernalillo county shall not be expended for the original purpose but is changed to purchase and install equipment in vehicles to expand access to fresh produce in federally designated food deserts in Bernalillo county. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 6 Laws 2015

SECTION 6. NEW MEXICO POLICE ATHLETIC LEAGUE BLEACHERS--CHANGE TO BERNALILLO COUNTY SHERIFF'S VEHICLES TECHNOLOGY AND EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 54 of Section 31 of Chapter 226 of Laws 2013 for bleachers for the New Mexico sheriff and police athletic league in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase, install and equip Bernalillo county sheriff's department vehicles with crash and crime reconstruction technology.

Chapter 147 Section 7 Laws 2015

SECTION 7. BERNALILLO COUNTY WESTSIDE COMMUNITY CENTER AIR CONDITIONING--CHANGE TO BERNALILLO COUNTY WESTSIDE COMMUNITY CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 4 of Section 16 of Chapter 64 of Laws 2012 to purchase and install a refrigerated air system at the Westside community center in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct and equip the Westside community center. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 8 Laws 2015

SECTION 8. MENAUL BOULEVARD MEDIAN IMPROVEMENTS--CHANGE TO COMANCHE BOULEVARD MEDIANS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 11 of Section 25 of Chapter 66 of Laws 2014 for irrigation renovation and landscape improvements on medians on Menaul boulevard shall not be expended for the original purpose but is changed to design and construct irrigation, renovation and landscape improvements on Comanche boulevard from Bryn Mawr drive to Carlisle boulevard in Albuquerque in Bernalillo county.

Chapter 147 Section 9 Laws 2015

SECTION 9. TIWA BUILDING LIABILITY, SAFETY AND CODE COMPLIANCE IMPROVEMENTS--CHANGE TO TIWA BUILDING PHASE 1--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund in Subsection 4 of Section 9 of Chapter 226 of Laws 2013 to plan, design, construct and make improvements and upgrades for liability, energy efficiency and code compliance at the Tiwa building in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish phase 1 of the Tiwa building in Albuquerque.

Chapter 147 Section 10 Laws 2015

SECTION 10. LA MESA ELEMENTARY SCHOOL OUTDOOR CLASSROOM--CHANGE TO LA MESA ELEMENTARY SCHOOL GROUNDS, PLAYGROUNDS AND FACILITIES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 105 of Section 13 of Chapter 66 of Laws 2014 for an outdoor classroom at La Mesa elementary school shall not be expended for the original purpose but is changed to plan, design, construct, improve and landscape the grounds, playgrounds and facilities, including the purchase of land and the purchase and installation of related equipment, fencing, shade structures and information technology, at La Mesa elementary school in the Albuquerque public school district in Bernalillo county.

Chapter 147 Section 11 Laws 2015

SECTION 11. LOS PADILLAS COMMUNITY CENTER EARLY CHILDHOOD EDUCATION CENTER PLAYGROUND--CHANGE TO LOS PADILLAS ELEMENTARY SCHOOL HEAD START CENTER PLAYGROUND--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 14 of Section 31 of Chapter 226 of Laws 2013 for the playground and equipment at the early childhood education center at Los Padillas community center in Bernalillo county shall not be expended for the original purpose but is appropriated to the public education department to plan, design and construct the

playground and purchase and install equipment at the head start center at Los Padillas elementary school in the Albuquerque public school district in Bernalillo county.

Chapter 147 Section 12 Laws 2015

SECTION 12. ROBERT F. KENNEDY CHARTER HIGH SCHOOL LAND AND FACILITIES--CHANGE TO ROBERT F. KENNEDY CHARTER HIGH SCHOOL IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 148 of Section 13 of Chapter 66 of Laws 2014 to purchase land and a building and renovate facilities for the Robert F. Kennedy charter high school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, landscape and improve the grounds, fields and facilities, including the purchase of land and the purchase and installation of related equipment, fencing, shade structures, turf, furniture and information technology, at Robert F. Kennedy charter high school.

Chapter 147 Section 13 Laws 2015

SECTION 13. SIERRA VISTA ELEMENTARY SCHOOL PRE-KINDERGARTEN PLAYGROUND--CHANGE TO GROUNDS AND PLAYGROUND IMPROVEMENTS AND EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 121 of Section 18 of Chapter 226 of Laws 2013 for pre-kindergarten playground improvements at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, drainage improvements and landscaping, at Sierra Vista elementary school.

Chapter 147 Section 14 Laws 2015

SECTION 14. VALLEY HIGH SCHOOL BASEBALL FIELD FENCE--CHANGE TO GROUNDS AND FACILITIES IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 177 of Section 13 of Chapter 66 of Laws 2014 for a baseball field safety fence at Valley high school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, renovate, construct, improve and landscape the grounds and facilities, including the purchase and installation of equipment, security cameras, fencing, shade structures and information technology, at Valley high school.

Chapter 147 Section 15 Laws 2015

SECTION 15. ROSWELL YUCCA RECREATION CENTER ROOF AND HEATING, VENTILATION AND AIR CONDITIONING SYSTEM--CHANGE TO POE

CORN PARK AQUATIC FACILITY--SEVERANCE TAX BONDS.--One hundred thousand dollars (\$100,000) of the unexpended balance of the appropriation to the local government division in Subsection 85 of Section 22 of Chapter 66 of Laws 2014 to plan, design, renovate and replace the roof and heating, ventilation and air conditioning system at the Yucca recreation center in Roswell in Chaves county shall not be expended for the original purpose but is changed to plan, design, construct, furnish and equip a splash pad aquatic facility at Poe Corn park in Roswell.

Chapter 147 Section 16 Laws 2015

SECTION 16. ROSWELL YUCCA RECREATION CENTER ROOF AND HEATING, VENTILATION AND AIR CONDITIONING SYSTEM--CHANGE TO IMPROVEMENTS TO THE POE CORN RECREATION CENTER--SEVERANCE TAX BONDS.--One hundred fifty thousand dollars (\$150,000) of the unexpended balance of the appropriation to the local government division in Subsection 85 of Section 22 of Chapter 66 of Laws 2014 to plan, design, renovate and replace the roof and heating, ventilation and air conditioning system at the Yucca recreation center in Roswell in Chaves county shall not be expended for the original purpose but is changed to plan, design, purchase, install, construct, furnish and equip improvements to the Poe Corn recreation center in Roswell.

Chapter 147 Section 17 Laws 2015

SECTION 17. ROSWELL YUCCA RECREATION CENTER ROOF AND HEATING, VENTILATION AND AIR CONDITIONING SYSTEM--CHANGE FOR IMPROVEMENTS AND CONSTRUCTION OF THAT FACILITY--SEVERANCE TAX BONDS.--Two hundred fifty thousand dollars (\$250,000) of the unexpended balance of the appropriation to the local government division in Subsection 85 of Section 22 of Chapter 66 of Laws 2014 to plan, design, renovate and replace the roof and heating, ventilation and air conditioning system at the Yucca recreation center in Roswell in Chaves county shall not be expended for the original purpose but is changed to plan, design, repair, improve and construct the Yucca recreation center.

Chapter 147 Section 18 Laws 2015

SECTION 18. SPRINGER WATER TREATMENT PLANT IONIZATION AND DISINFECTANT SYSTEM--CHANGE TO WATER SYSTEM IMPROVEMENTS FOR WATER TREATMENT PLANT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 18 of Section 16 of Chapter 66 of Laws 2014 for an ionization and disinfectant system for the water treatment plant in Springer in Colfax county shall not be expended for the original purpose but is changed to plan, design, construct and install water system improvements, including backwash water settling basins, at the water treatment plant in Springer.

Chapter 147 Section 19 Laws 2015

SECTION 19. CURRY COUNTY ROADS L AND 13 IMPROVEMENTS--CHANGE TO CURRY COUNTY ROAD IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 20 of Section 36 of Chapter 226 of Laws 2013 for improvements to county roads L and 13 in Curry county shall not be expended for the original purpose but is changed to plan, design and construct improvements to roads in Curry county.

Chapter 147 Section 20 Laws 2015

SECTION 20. TRES AMIGAS PROJECT ROAD IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 16 of Section 18 of Chapter 64 of Laws 2012 to plan, design and construct road improvements for the Tres Amigas project in Curry county is extended through fiscal year 2017.

Chapter 147 Section 21 Laws 2015

SECTION 21. FENCING IMPROVEMENTS IN POTTER PARK--EXPAND PURPOSE TO INCLUDE OTHER IMPROVEMENTS--SEVERANCE TAX BONDS.--The local government division project in Subsection 75 of Section 31 of Chapter 226 of Laws 2013 for a plaque and fencing for the Martin Luther King, Jr., memorial in Potter park in Clovis in Curry county may include paving parking areas, purchasing and installing fencing and bathroom renovation and construction at the baseball fields at Potter park.

Chapter 147 Section 22 Laws 2015

SECTION 22. BOSQUE REDONDO MEMORIAL CONSTRUCTION AND EXHIBITS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the cultural affairs department project originally authorized in Subsection 2 of Section 9 of Chapter 125 of Laws 2009 and reauthorized in Laws 2013, Chapter 202, Section 11 for exhibits, design, construction and installation at the Bosque Redondo memorial at the Fort Sumner historic site in De Baca county is extended through fiscal year 2017.

Chapter 147 Section 23 Laws 2015

SECTION 23. NEW MEXICO FARM AND RANCH HERITAGE MUSEUM TORTUGAS HALL--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the cultural affairs department project originally authorized in Subsection 3 of Section 9 of Chapter 125 of Laws 2009 for construction and completion of Tortugas hall and purchase and installation of exhibits at the New Mexico farm and ranch heritage museum in Las Cruces in Dona Ana county, and for which a time extension was authorized in Laws 2013, Chapter 202, Section 16, is extended through fiscal year 2017.

Chapter 147 Section 24 Laws 2015

SECTION 24. LAS CRUCES PORTABLE CINEMATIC INFRASTRUCTURE--CHANGE TO FACILITY AND RELATED INFRASTRUCTURE FOR FILM, DIGITAL MEDIA AND ENTERTAINMENT ARTS PRODUCTION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 104 of Section 22 of Chapter 66 of Laws 2014 for portable cinematic infrastructure in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, furnish and equip a facility and related infrastructure to be owned by Las Cruces in Dona Ana county for film, digital media and entertainment arts production.

Chapter 147 Section 25 Laws 2015

SECTION 25. LAS CRUCES CHILD CRISIS HEALTH FACILITY--CHANGE TO HEALTH FACILITY AT MESILLA VALLEY COMMUNITY OF HOPE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 98 of Section 22 of Chapter 66 of Laws 2014 for a child crisis health facility in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish a health facility at the Mesilla Valley community of hope in Las Cruces.

Chapter 147 Section 26 Laws 2015

SECTION 26. SANTA TERESA PORT OF ENTRY STATIC SCALE AND BORDER AUTHORITY BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 5 of Section 3 of Chapter 7 of Laws 2009 (S.S.), for which the expenditure period was extended in Laws 2013, Chapter 202, Section 17, for construction and to equip and install a platform static scale at the Santa Teresa port of entry and to design, construct, equip and furnish a building for the border authority at the Santa Teresa border crossing in Dona Ana county is extended through fiscal year 2017.

Chapter 147 Section 27 Laws 2015

SECTION 27. EDDY COUNTY SHOOTING RANGE--CHANGE TO CARLSBAD SOUTH LOOP ROAD--CHANGE AGENCY--SEVERANCE TAX BONDS.--Sixty-five thousand dollars (\$65,000) of the unexpended balance of the appropriation to the local government division in Subsection 58 of Section 16 of Chapter 64 of Laws 2012 for a shooting range in north Eddy county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct the south loop road around Carlsbad in Eddy county.

Chapter 147 Section 28 Laws 2015

SECTION 28. EDDY COUNTY CROSSROADS PROGRAM VANS--CHANGE TO CARLSBAD SOUTH LOOP ROAD--CHANGE AGENCY--SEVERANCE TAX BONDS.--Thirty-five thousand dollars (\$35,000) of the unexpended balance of the appropriation to the local government division in Subsection 108 of Section 22 of Chapter 66 of Laws 2014 to purchase and equip vans for the crossroads program in Eddy county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct the south loop road around Carlsbad in Eddy county.

Chapter 147 Section 29 Laws 2015

SECTION 29. GALLUP PEDESTRIAN SAFETY IMPROVEMENTS--CHANGE TO MCKINLEY COUNTY EQUIPMENT--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--Seventy-five thousand dollars (\$75,000) of the unexpended balance of the appropriation to the department of transportation in Subsection 45 of Section 36 of Chapter 226 of Laws 2013 for pedestrian safety improvements in Gallup in McKinley county shall not be expended for the original purpose but is appropriated to the local government division to purchase equipment for McKinley county. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 30 Laws 2015

SECTION 30. GALLUP PEDESTRIAN SAFETY IMPROVEMENTS--CHANGE TO COMMUNITY PANTRY IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--One hundred thousand dollars (\$100,000) of the unexpended balance of the appropriation to the department of transportation in Subsection 45 of Section 36 of Chapter 226 of Laws 2013 for pedestrian safety improvements in Gallup in McKinley county shall not be expended for the original purpose but is appropriated to the local government division for improvements, including tile and roof replacement, to the community pantry in Gallup.

Chapter 147 Section 31 Laws 2015

SECTION 31. GALLUP INTERTRIBAL CEREMONIAL OFFICE INFORMATION TECHNOLOGY--CHANGE TO MCKINLEY COUNTY HEAVY EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 137 of Section 31 of Chapter 226 of Laws 2013 for information technology for the Gallup intertribal ceremonial office in Gallup in McKinley county shall not be expended for the original purpose but is changed to purchase heavy equipment for McKinley county. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 32 Laws 2015

SECTION 32. GAMERCO WATER AND SANITATION DISTRICT WATER SYSTEM IMPROVEMENTS--CHANGE TO MCKINLEY COUNTY HEAVY EQUIPMENT

PURCHASE--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 38 of Section 23 of Chapter 226 of Laws 2013 for water system improvements for the Gamarco water and sanitation district in McKinley county shall not be expended for the original purpose but is appropriated to the local government division to purchase heavy equipment for McKinley county.

Chapter 147 Section 33 Laws 2015

SECTION 33. MCKINLEY COUNTY VEHICLES FOR TRANSPORTATION OF DISABLED CITIZENS--CHANGE TO RENOVATIONS TO THE RAMAH NAVAJO POLICE STATION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 142 of Section 22 of Chapter 66 of Laws 2014 for vehicles to serve the disabled in McKinley county shall not be expended for the original purpose but is appropriated to the Indian affairs department to plan, design, construct, renovate, furnish and equip the police station in the Ramah Navajo area of McKinley county.

Chapter 147 Section 34 Laws 2015

SECTION 34. MCKINLEY COUNTY VEHICLES FOR DISABLED--CHANGE TO RAMAH NAVAJO POLICE STATION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 136 of Section 31 of Chapter 226 of Laws 2013 for vehicles to serve the disabled in McKinley county shall not be expended for the original purpose but is appropriated to the Indian affairs department to plan, design, construct, renovate, furnish and equip the police station in the Ramah Navajo area of McKinley county. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 35 Laws 2015

SECTION 35. CROWNPOINT WELLNESS CENTER--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project originally appropriated in Subsection 43 of Section 66 of Chapter 42 of Laws 2007, for which the expenditure period was extended in Laws 2011, Chapter 183, Section 58 and in Laws 2013, Chapter 202, Section 25, to plan, design, construct, equip and furnish a wellness center, including purchasing a modular building, in Crownpoint in McKinley county is extended through fiscal year 2017.

Chapter 147 Section 36 Laws 2015

SECTION 36. GALLUP-MCKINLEY COUNTY PUBLIC SCHOOL DISTRICT MAINTENANCE FACILITY SITE REMEDIATION--CHANGE TO GALLUP SKATE PARK--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 39 of Section 23 of Chapter 226 of Laws 2013 for remediation at the Gallup-McKinley county public school

district maintenance facility site shall not be expended for the original purpose but is appropriated to the local government division to plan, design and construct a skate park in Gallup in McKinley county.

Chapter 147 Section 37 Laws 2015

SECTION 37. SMITH LAKE CHAPTER ACTIVITY BUILDING--CHANGE TO HEAVY EQUIPMENT BAY AND REPAIR SHOP--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 19 of Section 19 of Chapter 66 of Laws 2014 to plan and design an activity building for the Smith Lake chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is changed to plan, design and construct a heavy equipment bay and repair shop and to repair equipment for that chapter.

Chapter 147 Section 38 Laws 2015

SECTION 38. TOHATCHI CHAPTER RED WILLOW FARMLAND WELL PUMP SYSTEM--CHANGE TO POWERLINE EXTENSION--CHANGE AGENCY--SEVERANCE TAX BONDS.--One hundred fifty thousand dollars (\$150,000) of the unexpended balance of the appropriation to the department of environment in Subsection 41 of Section 23 of Chapter 226 of Laws 2013 for a water drill well pump system at the Red Willow farmland in the Tohatchi chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the Indian affairs department to plan, design and construct a powerline extension in that chapter.

Chapter 147 Section 39 Laws 2015

SECTION 39. TOHATCHI CHAPTER RECREATIONAL FACILITIES AND FIELDS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the project originally appropriated to the local government division in Subsection 154 of Section 26 of Chapter 2 of Laws 2007 and reappropriated to the Indian affairs department in Laws 2009, Chapter 128, Section 312, for which the expenditure period was extended in Laws 2011, Chapter 183, Section 66 and again in Laws 2013, Chapter 202, Section 26, to plan, design, construct, renovate and equip a skateboard park, volleyball park, picnic area, playground area, trails and landscaping in the Tohatchi chapter of the Navajo Nation in McKinley county is extended through fiscal year 2017.

Chapter 147 Section 40 Laws 2015

SECTION 40. TOHATCHI CHAPTER RED WILLOW FARMLAND WELL PUMP SYSTEM--CHANGE TO WAREHOUSE FACILITY--CHANGE AGENCY--SEVERANCE TAX BONDS.--Fifty thousand dollars (\$50,000) of the unexpended balance of the appropriation to the department of environment in Subsection 41 of Section 23 of Chapter 226 of Laws 2013 for a water drill well pump system at the Red Willow farmland in the Tohatchi chapter of the Navajo Nation in McKinley county shall not be

expended for the original purpose but is appropriated to the Indian affairs department to construct, purchase and install a warehouse facility in that chapter.

Chapter 147 Section 41 Laws 2015

SECTION 41. HATCH WELL--CHANGE TO WELL AND WELL CONNECTIONS WEST OF HATCH--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 145 of Section 16 of Chapter 66 of Laws 2014 to construct a well and well connections in Hatch in Dona Ana county shall not be expended for the original purpose but is changed to construct a well and well connections west of Hatch in Dona Ana, Sierra and Luna counties.

Chapter 147 Section 42 Laws 2015

SECTION 42. LINCOLN AND OTERO COUNTY FLOOD DAMAGE IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the appropriation to the homeland security and emergency management department originally appropriated in Laws 2008 (2nd S.S.), Chapter 8, Section 1 to plan, design and construct improvements to roads, bridges and infrastructure damaged by severe flooding in Lincoln and Otero counties and reauthorized in Laws 2013, Chapter 202, Section 28 to extend the time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 43 Laws 2015

SECTION 43. NORTH CENTRAL ECONOMIC DEVELOPMENT DISTRICT BROADBAND INFRASTRUCTURE IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of information technology in Subsection 1 of Section 20 of Chapter 66 of Laws 2014 to plan, design and construct a high-speed broadband infrastructure network into Bernalillo and Sandoval counties and rural northern New Mexico to integrate with the existing regional economic development initiative net open access network in north central New Mexico is appropriated to the local government division for that purpose.

Chapter 147 Section 44 Laws 2015

SECTION 44. TORRANCE COUNTY TRI-COUNTY YOUTH MULTIPURPOSE FACILITY--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 214 of Section 31 of Chapter 226 of Laws 2013 to plan, design, purchase, construct, renovate and equip a multipurpose facility for tri-county youth and their families in Torrance county is appropriated to the public education department for the same purpose in the Moriarty-Edgewood municipal school district in Torrance and Santa Fe counties.

Chapter 147 Section 45 Laws 2015

SECTION 45. ALAMOGORDO BRACKISH WATER SUPPLY WELL, TANK, BOOSTER STATION AND PONDS--CHANGE TO ALAMOGORDO DESALINATION TREATMENT FACILITY AND BRACKISH WATER SUPPLY SYSTEM--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 135 of Section 16 of Chapter 66 of Laws 2014 to plan, design and construct phase 1 of a brackish water supply well, storage tank, booster station and evaporation ponds in Alamogordo in Otero county shall not be expended for the original purpose but is changed to plan, design and construct a desalination treatment facility and brackish water supply system for Alamogordo.

Chapter 147 Section 46 Laws 2015

SECTION 46. QUAY COUNTY TRIGG HOSPITAL WINDOWS--CHANGE TO QUAY COUNTY OFFICES INFORMATION TECHNOLOGY UPDATE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 147 of Section 31 of Chapter 226 of Laws 2013 to remove and install windows at the Dan C. Trigg Memorial hospital in Quay county is changed to purchase and install information technology, including related equipment, furniture and infrastructure, at the Quay county offices.

Chapter 147 Section 47 Laws 2015

SECTION 47. UTE RESERVOIR INTAKE STRUCTURE STUDY--CHANGE TO LOGAN STREET AND DRAINAGE IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the office of the state engineer in Subsection 2 of Section 15 of Chapter 66 of Laws 2014 for a Ute reservoir intake structure study shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct street and drainage improvements in Logan in Quay county.

Chapter 147 Section 48 Laws 2015

SECTION 48. VELARDE RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM INFORMATION TECHNOLOGY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 158 of Section 31 of Chapter 226 of Laws 2013 for information technology for a residential substance abuse treatment and recovery program in Velarde in Rio Arriba county is extended through fiscal year 2017.

Chapter 147 Section 49 Laws 2015

SECTION 49. NAVAJO NATION SAN JUAN RIVER DINEH WATER USERS IRRIGATION SYSTEM--CHANGE TO BACKHOE--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 30 of Section 19 of Chapter 66 of Laws 2014 for improvements to irrigation systems for the San Juan river Dineh water users,

incorporated, on the Navajo Nation in San Juan county shall not be expended for the original purpose but is appropriated to the local government division to purchase a backhoe for the San Juan river Dineh water users, incorporated.

Chapter 147 Section 50 Laws 2015

SECTION 50. UNITED STATES HIGHWAY 491 AND NAVAJO SERVICE ROUTE 34 SAFETY IMPROVEMENTS--CHANGE FROM SANOSTEE CHAPTER TO DISTRICT 6--SEVERANCE TAX BONDS.--The department of transportation project originally appropriated in Subsection 57 of Section 36 of Chapter 226 of Laws 2013 and reauthorized in Laws 2014, Chapter 64, Section 41 to plan, design and construct safety improvements at the junction of United States highway 491 and Navajo service route 34 in the Sanostee chapter of the Navajo Nation in San Juan county is appropriated for that purpose to district 6 of the department of transportation.

Chapter 147 Section 51 Laws 2015

SECTION 51. GADII'AHÍ CHAPTER IRRIGATION SYSTEM--EXPAND PURPOSE TO INCLUDE PHASE 5--SEVERANCE TAX BONDS.--The Indian affairs department project in Subsection 32 of Section 19 of Chapter 66 of Laws 2014 to design, construct and install phase 4 of the irrigation system in the Gadii'ahi chapter of the Navajo Nation in San Juan county may include phase 5 of that project.

Chapter 147 Section 52 Laws 2015

SECTION 52. SANOSTEE CHAPTER SENIOR CENTER IMPROVEMENTS FOR CODE COMPLIANCE--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The aging and long-term services department project in Subsection 30 of Section 4 of Chapter 5 of Laws 2011 (S.S.) to make improvements for building code compliance, including purchase and installation of equipment, to the Sanostee chapter senior center on the Navajo Nation in San Juan county may include planning, designing, constructing, renovating, demolishing and improving that senior center. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 53 Laws 2015

SECTION 53. ACEQUIA MADRE DE VILLANUEVA NORTHSIDE CEMENT DITCH--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The interstate stream commission project in Subsection 19 of Section 29 of Chapter 226 of Laws 2013 to construct improvements for the northside acequia madre de Villanueva in San Miguel county may include restoration of the acequia bank and landscaping.

Chapter 147 Section 54 Laws 2015

SECTION 54. PECOS CANYON VOLUNTEER FIRE AND RESCUE DEPARTMENT FIRE TRUCK--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 161 of Section 31 of Chapter 226 of Laws 2013 to purchase and equip a fire truck for the Pecos Canyon volunteer fire department in San Miguel county is extended through fiscal year 2017.

Chapter 147 Section 55 Laws 2015

SECTION 55. PECOS CANYON FIRE DEPARTMENT FIRE TRUCK--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 169 of Section 22 of Chapter 66 of Laws 2014 to purchase and equip a fire truck for the Pecos Canyon volunteer fire department in San Miguel county is extended through fiscal year 2017.

Chapter 147 Section 56 Laws 2015

SECTION 56. PECOS WASTEWATER AND SEWER SYSTEM IMPROVEMENTS ALONG RINCON ROAD AND NEW MEXICO HIGHWAY 63--CHANGE TO WATER AND WASTEWATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 93 of Section 16 of Chapter 66 of Laws 2014 to design and construct wastewater system improvements along Rincon road and New Mexico highway 63 in Pecos in San Miguel county shall not be expended for the original purpose but is changed to design and construct water and wastewater system improvements, including a lift station, an extension of the sewer system, replacement of water lines, acquisition of rights of way and roadway improvements, along Rincon road and New Mexico highway 63.

Chapter 147 Section 57 Laws 2015

~~[SECTION 57. PECOS RINCON ROAD AND NEW MEXICO HIGHWAY 63 SEWER SYSTEM AND LIFT STATION--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The department of environment project in Subsection 93 of Section 16 of Chapter 66 of Laws 2014 to design and construct wastewater system improvements, a lift station and extension of the sewer system along Rincon road and New Mexico highway 63 in Pecos in San Miguel county may include design and construction of water system improvements, replacement of water lines and acquisition of rights of way along that road and highway.]~~ *LINE-ITEM VETO*

Chapter 147 Section 58 Laws 2015

SECTION 58. CHAPELLE MUTUAL DOMESTIC CONSUMERS ASSOCIATION WATER STORAGE TANK--CHANGE TO WATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 96 of Section 16 of Chapter 66 of Laws 2014 to plan and design a water storage tank for the Chapelle mutual domestic consumers

association in Serafina in San Miguel county shall not be expended for the original purpose but is changed to plan, design and construct water system improvements, including a water storage tank, water line and booster station, for that association.

Chapter 147 Section 59 Laws 2015

SECTION 59. NORTHSIDE ACEQUIA MADRE DE VILLANUEVA DAM--CHANGE TO CONSTRUCTION OF DAM--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the interstate stream commission in Subsection 15 of Section 21 of Chapter 66 of Laws 2014 to plan and design a dam for the northside acequia madre de Villanueva in San Miguel county shall not be expended for the original purpose but is changed for construction of the dam repair project, including improvements related to sedimentation, for that acequia.

Chapter 147 Section 60 Laws 2015

SECTION 60. BECENTI CHAPTER WATER SYSTEM IMPROVEMENTS--CHANGE TO PUEBLO OF JEMEZ EQUIPMENT AND VEHICLES FOR HOUSING PROJECT--CHANGE AGENCY--SEVERANCE TAX BONDS.--Fifty thousand dollars (\$50,000) of the unexpended balance of the appropriation to the department of environment in Subsection 61 of Section 16 of Chapter 66 of Laws 2014 for water system improvements in the Becenti chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the Indian affairs department to purchase heavy equipment and vehicles for the self-help housing project at the Pueblo of Jemez in Sandoval county.

Chapter 147 Section 61 Laws 2015

SECTION 61. PENA BLANCA WATER AND SANITATION DISTRICT WATER SYSTEM IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The department of environment project in Subsection 102 of Section 16 of Chapter 66 of Laws 2014 for water system improvements for the Pena Blanca water and sanitation district in Sandoval county may include the purchase of land and buildings for a water tank and for an office facility for that district.

Chapter 147 Section 62 Laws 2015

SECTION 62. PASEO DEL VOLCAN LOOP BYPASS ROAD--CHANGE SECTION OF ROAD--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 54 of Section 36 of Chapter 226 of Laws 2013 to acquire rights of way for and to plan, design and construct Paseo del Volcan loop bypass road from Unser boulevard to New Mexico highway 550 in Bernalillo and Sandoval counties shall not be expended for the original purpose but is changed to acquire rights of way for and to plan, design and construct a Paseo del Volcan loop bypass road from Unser boulevard to interstate 40 in Bernalillo and Sandoval counties.

Chapter 147 Section 63 Laws 2015

SECTION 63. RIO RANCHO PUBLIC SCHOOL DISTRICT NEW MEXICO LEARNING AND DEVELOPMENT CENTER--CHANGE TO RIO RANCHO NEW MEXICO LEARNING AND DEVELOPMENT CENTER--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 230 of Section 13 of Chapter 66 of Laws 2014 to acquire land for and plan, design and construct phases 1 and 2 of the New Mexico learning and development center in the Rio Rancho public school district in Sandoval county is appropriated to the local government division to acquire land for and plan, design and construct phases 1 and 2 of the New Mexico learning and development center in Rio Rancho in Sandoval county.

Chapter 147 Section 64 Laws 2015

SECTION 64. RIO RANCHO PUBLIC SCHOOL DISTRICT ELEMENTARY SCHOOL VISITOR-RELATED IMPROVEMENTS--CHANGE TO SPECIFIC MIDDLE SCHOOL SECURITY IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 229 of Section 13 of Chapter 66 of Laws 2014 for visitor-related improvements at elementary schools in the Rio Rancho public school district in Sandoval county shall not be expended for the original purpose but is changed to plan, design and construct improvements to enhance security at middle school entranceways in that school district, to be divided equally among Eagle Ridge, Lincoln, Mountain View and Rio Rancho middle schools.

Chapter 147 Section 65 Laws 2015

SECTION 65. ACEQUIA LARGA DE JACONA INFILTRATION AND DIVERSION IMPROVEMENTS--CHANGE TO IMPROVEMENTS TO ACEQUIA LARGA DE JACONA--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the interstate stream commission in Subsection 29 of Section 29 of Chapter 226 of Laws 2013 to construct and install infiltration and diversion improvements to the acequia larga de Jacona in Santa Fe county shall not be expended for the original purpose but is changed to plan, design and construct improvements to the acequia larga de Jacona in that county.

Chapter 147 Section 66 Laws 2015

SECTION 66. INSTITUTE OF AMERICAN INDIAN ARTS FITNESS AND WELLNESS FACILITY--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The Indian affairs department project in Subsection 45 of Section 28 of Chapter 226 of Laws 2013 to plan and design a fitness and wellness facility at the institute of American Indian arts in Santa Fe county may include construction.

Chapter 147 Section 67 Laws 2015

SECTION 67. NEW MEXICO SCHOOL FOR THE ARTS PROPERTY PURCHASE FOR PERMANENT CAMPUS--CHANGE TO FACILITIES FOR NEW MEXICO SCHOOL FOR THE ARTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 241 of Section 13 of Chapter 66 of Laws 2014 to purchase a portion of the department of transportation's real property on Alta Vista street for a permanent campus for the New Mexico school for the arts shall not be expended for the original purpose but is changed to plan, design and construct facilities for the New Mexico school for the arts in Santa Fe in Santa Fe county, contingent upon a match from private donations.

Chapter 147 Section 68 Laws 2015

SECTION 68. SANTA FE BOYS' AND GIRLS' CLUB PARKING LOT CONSTRUCTION--CHANGE TO REPAIRS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 120 of Section 16 of Chapter 64 of Laws 2012 to construct a gravel parking lot at the Santa Fe boys' and girls' club in Santa Fe shall not be expended for the original purpose but is changed to repair parking lots at the Santa Fe boys' and girls' club in Santa Fe county.

Chapter 147 Section 69 Laws 2015

SECTION 69. SANTA FE MEAL PROGRAM FACILITY AND INFORMATION TECHNOLOGY--CLARIFY LOCATION--SEVERANCE TAX BONDS.--The local government division project in Subsection 199 of Section 22 of Chapter 66 of Laws 2014 is for purchasing and installing information technology and related infrastructure and for planning, designing, constructing, renovating, expanding, furnishing and equipping a facility that houses a meal program serving a low-income, homebound, chronically or terminally ill population in Santa Fe in Santa Fe county.

Chapter 147 Section 70 Laws 2015

SECTION 70. SANTA FE MEDICAL CENTER'S ALTO STREET CLINIC HEATING, VENTILATION AND AIR CONDITIONING SYSTEM--EXPAND TO INCLUDE IMPROVEMENTS TO LIGHTING, PARKING LOTS AND SIDEWALKS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 200 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct and repair the heating, ventilation and air conditioning system at the Alto street medical center clinic in Santa Fe in Santa Fe county may include planning, constructing and renovating security lighting, parking lots and sidewalks at that location.

Chapter 147 Section 71 Laws 2015

SECTION 71. SANTA FE RODEO ARENA AND DISASTER RELIEF FACILITY--CHANGE TO SANTA FE MUNICIPAL RECREATION COMPLEX SOCCER FIELDS AND FACILITIES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 191 of Section 31 of Chapter 226 of Laws 2013 for the rodeo indoor arena and disaster relief facility in Santa Fe shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish the soccer fields and facilities at the municipal recreation complex in Santa Fe in Santa Fe county.

Chapter 147 Section 72 Laws 2015

SECTION 72. ACADEMY FOR TECHNOLOGY AND THE CLASSICS CHARTER SCHOOL--CHANGE TO TURQUOISE TRAIL ELEMENTARY SCHOOL WATER, ELECTRICAL, SAFETY AND SECURITY SYSTEMS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection 644 of Section 68 of Chapter 42 of Laws 2007 and reauthorized in Laws 2011, Chapter 183, Section 106 to the public education department and reauthorized again in Laws 2013, Chapter 202, Section 43 to purchase, expand and renovate the facility at Academy for Technology and the Classics charter school in the Santa Fe public school district in Santa Fe county shall not be used for the original or reauthorized purposes but is changed to plan, design, construct, equip and improve water, electrical, safety and security systems at Turquoise Trail elementary school in the Santa Fe public school district. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 73 Laws 2015

SECTION 73. NEW MEXICO STATE VETERANS' HOME SKILLED NURSING ALZHEIMER'S UNIT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 9 of Section 7 of Chapter 125 of Laws 2009 and reauthorized in Laws 2012, Chapter 63, Section 101 to plan, design, construct, furnish, equip and landscape a skilled nursing Alzheimer's unit at the New Mexico state veterans' home in Truth or Consequences in Sierra county, for which the expenditure period was extended in Laws 2013, Chapter 202, Section 44, is extended through fiscal year 2017.

Chapter 147 Section 74 Laws 2015

SECTION 74. ACEQUIA WATER STORAGE PROJECTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the office of the state engineer project originally authorized in Subsection 48 of Section 3 of Chapter 7 of Laws 2009 (S.S.) and for which the expenditure period was extended in Laws 2013, Chapter 202, Section 48 to repair and rehabilitate acequia water storage projects statewide is extended through fiscal year 2017.

Chapter 147 Section 75 Laws 2015

SECTION 75. LAS TRAMPAS MUTUAL DOMESTIC WATER CONSUMERS AND MUTUAL SEWAGE WORKS ASSOCIATION FENCE--CHANGE TO WATER METERS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 81 of Section 23 of Chapter 226 of Laws 2013 to construct a fence for Las Trampas mutual domestic water consumers and mutual sewage works association in Taos county shall not be expended for the original purpose but is changed to purchase and install water meters for that association.

Chapter 147 Section 76 Laws 2015

SECTION 76. QUESTA COMMUNITY CENTER--CHANGE TO QUESTA YOUTH BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection 132 of Section 16 of Chapter 64 of Laws 2012 and reauthorized in Laws 2013, Chapter 202, Section 53 for a community center in Questa in Taos county shall not be expended for the original or reauthorized purpose but is changed to plan, design, construct, furnish, equip, renovate and expand the youth building in Questa. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 77 Laws 2015

SECTION 77. RED RIVER EARLY CHILDHOOD DEVELOPMENT CENTER--CHANGE TO WASTEWATER PLANT AND SYSTEM IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 141 of Section 16 of Chapter 64 of Laws 2012 for an early childhood development center in Red River in Taos county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct improvements to the wastewater plant and system in Red River. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 78 Laws 2015

SECTION 78. RED RIVER DAYCARE CENTER--CHANGE TO RED RIVER WASTEWATER SYSTEM AND PLANT IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 207 of Section 31 of Chapter 226 of Laws 2013 for a daycare center in Red River in Taos county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct improvements to the wastewater plant and system in Red River.

Chapter 147 Section 79 Laws 2015

SECTION 79. KIT CARSON PARK PUBLIC RESTROOMS--CHANGE TO PUBLIC PARK SYSTEM RESTROOMS IN TAOS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division

in Subsection 144 of Section 16 of Chapter 64 of Laws 2012 for public restrooms at Kit Carson park in Taos in Taos county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, purchase and install public restrooms for the public park system in Taos in Taos county. The time of expenditure is extended through fiscal year 2017.

Chapter 147 Section 80 Laws 2015

~~[SECTION 80. HUMAN SERVICES DEPARTMENT DRUG AND SUBSTANCE ABUSE TREATMENT FACILITY IN LOS LUNAS--CHANGE TO BELEN RESIDENTIAL TRANSITIONAL SUBSTANCE ABUSE FACILITY--CHANGE AGENCY--SEVERANCE TAX BONDS.--Three million dollars (\$3,000,000) of the unexpended balance of the appropriation to the capital program fund originally authorized in Subsection 10 of Section 5 of Chapter 64 of Laws 2012 and for which the certification time was extended in Laws 2014, Chapter 64, Section 60 for the human services department drug and substance abuse treatment facility in Los Lunas in Valencia county shall not be expended for the original purpose but is appropriated to the local government division to purchase, plan, design, construct, renovate, repair, furnish and equip a residential transitional substance abuse facility in Belen in Valencia county.]~~ *LINE-ITEM VETO*

Chapter 147 Section 81 Laws 2015

SECTION 81. HUMAN SERVICES DEPARTMENT LOS LUNAS DRUG AND SUBSTANCE ABUSE TREATMENT FACILITY--CHANGE TO CORRECTIONS DEPARTMENT WOMEN'S TRANSITIONAL LIVING FACILITIES INITIATIVE IN VALENCIA COUNTY RENOVATIONS AND IMPROVEMENTS--SEVERANCE TAX BONDS.--One million five hundred thousand dollars (\$1,500,000) of the unexpended balance of the appropriation to the capital program fund originally authorized in Subsection 10 of Section 5 of Chapter 64 of Laws 2012 and for which the certification time was extended in Laws 2014, Chapter 64, Section 60 for the human services department drug and substance abuse treatment facility in Los Lunas in Valencia county shall not be expended for the original purpose but is changed to plan, design, construct, improve, repair, replace, furnish, landscape and upgrade building systems, grounds, facilities and infrastructure, including energy efficiency improvements, electrical systems, fire alarms, heating, ventilation and air conditioning, interior finishes, fencing, security, current accessibility code compliance and the purchase and installation of related equipment and information technology, for the corrections department women's transitional living facilities in Valencia county.

Chapter 147 Section 82 Laws 2015

SECTION 82. HUMAN SERVICES DEPARTMENT LOS LUNAS DRUG AND SUBSTANCE ABUSE TREATMENT FACILITY--CHANGE TO VALENCIA COUNTY CRISIS TRIAGE CENTER FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund in Subsection 17 of Section 9 of Chapter 226 of Laws 2013 for a drug and substance abuse treatment

facility in Los Lunas in Valencia county shall not be expended for the original purpose but is changed to purchase, plan, design, construct, renovate, repair, furnish and equip a crisis triage center facility in Valencia county. The time of expenditure is extended through fiscal year 2018.

Chapter 147 Section 83 Laws 2015

SECTION 83. HUMAN SERVICES DEPARTMENT LOS LUNAS DRUG AND SUBSTANCE ABUSE TREATMENT FACILITY--CHANGE TO VALENCIA COUNTY CRISIS TRIAGE CENTER FACILITY--SEVERANCE TAX BONDS.--Five hundred thousand dollars (\$500,000) of the unexpended balance of the appropriation to the capital program fund originally authorized in Subsection 10 of Section 5 of Chapter 64 of Laws 2012 and for which the certification time was extended in Laws 2014, Chapter 64, Section 60 for the human services department drug and substance abuse treatment facility in Los Lunas in Valencia county shall not be expended for the original purpose but is changed to purchase, plan, design, construct, renovate, repair, furnish and equip a crisis triage center facility in Valencia county.

Chapter 147 Section 84 Laws 2015

SECTION 84. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SFC/Senate Bill 291, aa, w/ec, partial veto

Approved April 10, 2015

LAWS 2015, CHAPTER 148

AN ACT

RELATING TO GAME AND FISH; AMENDING SECTIONS OF CHAPTER 17 NMSA 1978 TO PROVIDE FOR ACTIVE DUTY MILITARY AND VETERANS LICENSE DISCOUNTS OF FIFTY PERCENT; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2011 BY REPEALING LAWS 2011, CHAPTER 25, SECTION 1.

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

Chapter 148 Section 1 Laws 2015

SECTION 1. Section 17-3-2 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 2, as amended by Laws 2011, Chapter 25, Section 1 and by Laws 2011, Chapter 186, Section 2) is amended to read:

"17-3-2. CLASSES OF LICENSES.--

A. As used with reference to licenses in Chapter 17 NMSA 1978:

(1) "fishing" entitles the licensee to fish for game fish during the open seasons for each species;

(2) "game hunting" entitles the licensee to hunt game birds, other than wild turkey, and squirrel during the open seasons for each and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey;

(3) "deer" entitles the licensee to hunt deer during the open season;

(4) "antelope" entitles the licensee to hunt antelope during the open season;

(5) "elk" entitles the licensee to hunt elk during the open season;

(6) "bighorn sheep" entitles the licensee to hunt bighorn sheep during the open season;

(7) "Barbary sheep" entitles the licensee to hunt Barbary sheep during the open season;

(8) "javelina" entitles the licensee to hunt javelina during the open season;

(9) "bear" entitles the licensee to hunt bear during the open season;

(10) "nongame" entitles the licensee to hunt or take any animal or bird not protected by law;

(11) "temporary fishing" entitles the licensee to fish for game fish during a specific period of time indicated on the license;

(12) "oryx" entitles the licensee to hunt oryx during the open season;

(13) "ibex" entitles the licensee to hunt ibex during the open season;

(14) "cougar" entitles the licensee to hunt cougar during the open season;

(15) "turkey" entitles the licensee to hunt turkey during the open season;

(16) "special season turkey" entitles the licensee to hunt turkey during special seasons designated by the state game commission;

(17) "quality elk" entitles the licensee to hunt elk during a special quality elk season, to be established by the state game commission, when the timing of the season and hunter density is specially regulated and the elk population is managed with an intent to provide the licensee an increased opportunity to take a mature elk;

(18) "quality deer" entitles the licensee to hunt deer during a special quality deer season, to be established by the state game commission, when the timing of the season and hunter density is specially regulated and the deer population is managed with an intent to provide the licensee an increased opportunity to take a mature deer;

(19) "temporary game hunting" entitles the licensee to hunt game birds, except wild turkey, and squirrel during a specific period of time indicated on the license;

(20) "second rod" entitles the licensee to fish using two fishing rods to fish for game fish during the open seasons for each species; and

(21) "fishing and game hunting combination" entitles the licensee to hunt squirrel and game birds, other than wild turkey, and to fish for game fish during the open season for each.

B. A hunting license does not entitle the licensee to hunt, kill or take game animals or birds within or upon a park or enclosure licensed or posted as provided by law or within or upon a privately owned enclosure without consent of the owner or within or upon a game refuge or game management area.

C. A fishing license does not entitle the licensee to fish for or take fish within or upon a park or enclosure licensed or posted as provided by law or within or upon a privately owned enclosure without consent of the owner or in or on closed waters.

D. A junior fishing license may be purchased by a resident who has reached the age of twelve years but has not reached the age of eighteen years. A junior fishing license entitles the licensee to fish for game fish during the open season for each species.

E. A senior fishing license may be purchased by a resident who has reached the age of sixty-five years. A senior fishing license entitles the licensee to fish for game fish during the open season for each species.

F. A nonresident junior fishing license may be purchased by a nonresident who has reached the age of twelve years but has not reached the age of eighteen years. A nonresident junior fishing license entitles the licensee to fish for game fish during the open season for each species.

G. A senior game hunting license may be purchased by a resident who has reached the age of sixty-five years. A senior game hunting license entitles the licensee to hunt for squirrel and game birds, other than wild turkey, during the open seasons for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey.

H. A junior, resident or nonresident, game hunting license may be purchased by a person who has not reached the age of eighteen years. A junior game hunting license entitles the licensee to hunt for squirrel and game birds, other than wild turkey, during the open seasons for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey.

I. A handicapped fishing license may be purchased by a resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license may be purchased by a resident who has a developmental disability as defined in Subsection H of Section 43-1-3 NMSA 1978 and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license entitles the licensee to fish for game fish during the open season for each species.

J. A handicapped game hunting license may be purchased by a resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped game hunting license entitles the licensee to hunt for squirrel and game birds, other than wild turkey, during the open season for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey.

K. A fishing license may be obtained at no cost by a resident who has reached the age of seventy years.

L. A second rod validation may be purchased by either a resident or nonresident. A second rod validation entitles the licensee to fish using two rods for game fish during the open season for each species.

M. A junior-senior elk license may be purchased by a resident who has not reached the age of eighteen years or by a resident who has reached the age of sixty-five years. A junior-senior elk license entitles the licensee to hunt for elk during the open season for that species.

N. A junior-senior deer license may be purchased by a resident who is younger than eighteen years or older than sixty-five years. A junior-senior deer license entitles the licensee to hunt for deer during the open season for that species.

O. A junior or senior fishing and game hunting combination license may be purchased by a resident who is younger than eighteen years or older than sixty-five years. A junior or senior fishing and game hunting combination license entitles the licensee to fish for game fish or hunt for squirrel and game birds, other than wild turkey, during the open seasons for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey.

P. Except for a resident, disabled veteran, fishing and game hunting combination license issued pursuant to Section 17-3-13 NMSA 1978, a New Mexico resident who is a veteran of the United States military or who is active duty military is eligible for a fifty percent discount on any license, permit or stamp purchase upon valid proof of service as determined by the state game commission."

Chapter 148 Section 2 Laws 2015

SECTION 2. Section 17-3-13 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 5, as amended by Laws 2011, Chapter 25, Section 2 and by Laws 2011, Chapter 186, Section 4) is amended to read:

"17-3-13. LICENSE FEES.--

A. The director of the department of game and fish shall keep a record of all money received and licenses and permits issued by the department, numbering each class separately. Upon satisfactory proof that a license or permit has been lost before its expiration, the director may issue a duplicate and collect a just and reasonable fee for it as determined by regulation of the state game commission.

B. The director of the department of game and fish shall collect the following fees for each license of the class indicated:

Resident, fishing \$25.00

Resident, game hunting 15.00

Resident, deer 31.00

Resident, junior-senior, deer	19.00
Resident, senior, handicapped, game hunting and fishing	20.00
Resident, fishing and game hunting combination	30.00
Resident, junior, fishing and game hunting combination	15.00
Resident, disabled veteran, fishing and game hunting combination	10.00
Resident, antelope	50.00
Resident, elk cow	50.00
Resident, elk bull or either sex	80.00
Resident, junior-senior, elk	48.00
Resident, bighorn sheep, ram	150.00
Resident, bighorn sheep, ewe	75.00
Resident, Barbary sheep	100.00
Resident, bear	44.00
Resident, turkey	25.00
Resident, cougar	40.00
Resident, oryx	150.00
Resident, ibex	100.00
Resident, javelina	55.00
Resident, fur dealer	15.00
Resident, trapper	20.00

Resident, junior trapper	9.00
Nonresident, fishing	56.00
Nonresident, junior fishing	15.00
Nonresident, junior, game hunting	15.00
Nonresident, game hunting	65.00
Nonresident, deer	260.00
Nonresident, quality deer	345.00
Nonresident, bear	250.00
Nonresident, cougar	280.00
Nonresident, turkey	100.00
Nonresident, antelope	260.00
Nonresident, elk cow	315.00
Nonresident, elk bull or either sex	525.00
Nonresident, quality elk	750.00
Nonresident, bighorn sheep	3,150.00
Nonresident, Barbary sheep	350.00
Nonresident, oryx	1,600.00
Nonresident, ibex	1,600.00
Nonresident, javelina	155.00
Nonresident, fur dealer	125.00
Nonresident, trapper	345.00
Nonresident, nongame	65.00
Resident, senior, handicapped,	

fishing 8.00
Resident, junior fishing 5.00
Temporary fishing, one day 12.00
Temporary fishing, five days 24.00
Resident, senior, handicapped,
game hunting 15.00
Resident, junior, game hunting 10.00
Temporary game hunting, four days 33.00
Second rod validation 4.00."

Chapter 148 Section 3 Laws 2015

SECTION 3. REPEAL.--Laws 2011, Chapter 25, Section 1 is repealed.

Chapter 148 Section 4 Laws 2015

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 2016.

House Bill 203, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 149

AN ACT

RELATING TO MILITARY AFFAIRS; RECOGNIZING THAT NATIONAL GUARD MEMBERS ARE ELIGIBLE FOR LIFE INSURANCE POLICIES FOR UP TO THE MAXIMUM AMOUNT ALLOWABLE THROUGH THE FEDERAL SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM; DECLARING AN EMERGENCY.

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

Chapter 149 Section 1 Laws 2015

SECTION 1. Section 20-4-7.2 NMSA 1978 (being Laws 2005, Chapter 2, Section 1) is amended to read:

"20-4-7.2. LEGISLATIVE FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) the national guard has a proud tradition of military service with thousands of New Mexicans having answered the call of the nation and served in the national guard;

(2) there have been instances in which the dependents of members of the national guard have been left without adequate financial resources when a national guard member has been killed while on active duty;

(3) members of the national guard are now being asked to serve extended periods of active duty in combat areas;

(4) members of the national guard are eligible for life insurance policies up to the maximum amount allowable through the federal servicemembers' group life insurance program; and

(5) members of the national guard provide New Mexico and its citizens valuable benefits through their service inside this state and through their recently extended periods of active duty in combat areas outside of New Mexico, and in exchange for these extended periods of active duty they should receive assistance with their premiums for the federal servicemembers' group life insurance program.

B. The purpose of creating and funding the service members' life insurance reimbursement fund is to provide a benefit to members of the national guard in exchange for and in recognition of their assumption of extended periods of active duty in combat areas, in addition to their increased contributions to the safety and welfare of the citizens of the state of New Mexico."

Chapter 149 Section 2 Laws 2015

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

House Bill 220, aa, w/ec

Approved April 10, 2015

LAWS 2015, CHAPTER 150

AN ACT

RELATING TO MILITARY AFFAIRS; CHANGING ELIGIBILITY REQUIREMENTS FOR ASSISTANCE TO NATIONAL GUARD MEMBERS AND THEIR FAMILIES; DECLARING AN EMERGENCY.

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

Chapter 150 Section 1 Laws 2015

SECTION 1. Section 7-1-6.50 NMSA 1978 (being Laws 2005, Chapter 220, Section 1, as amended) is amended to read:

"7-1-6.50. DISTRIBUTION--CONTRIBUTIONS FOR NATIONAL GUARD MEMBER AND FAMILY ASSISTANCE.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the department of military affairs in an amount equal to the money designated pursuant to the Income Tax Act as contributions for assistance to members of the New Mexico national guard deployed overseas for a period of thirty or more consecutive days and to their families. The department of military affairs shall deposit the money in a temporary suspense account for distribution to members of the New Mexico national guard and to their families."

Chapter 150 Section 2 Laws 2015

SECTION 2. Section 7-2-30.3 NMSA 1978 (being Laws 2005, Chapter 220, Section 2) is amended to read:

"7-2-30.3. OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTION--NATIONAL GUARD MEMBER AND FAMILY ASSISTANCE.--

A. Except as otherwise provided in Subsection C of this section, an individual whose state income tax liability after application of allowable credits and tax rebates in a year is lower than the amount of money held by the department to the credit of the individual for that tax year may designate a portion of the income tax refund due to the individual to be contributed for assistance to members of the New Mexico national guard activated for overseas service and to their families. 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:

"National Guard Member and Family Assistance - Check if you wish to contribute a part or all of your tax refund for assistance to members of the New Mexico national guard activated for overseas service and to their families. 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 150 Section 3 Laws 2015

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

House Bill 327, aa, w/ec

Approved April 10, 2015

LAWS 2015, CHAPTER 151

AN ACT

RELATING TO VETERANS; PROVIDING THAT A SPOUSE OR CHILD OF A VETERAN IS ENTITLED TO PAY RESIDENT TUITION RATES IF THE SPOUSE OR CHILD IS ELIGIBLE FOR EDUCATIONAL BENEFITS PURSUANT TO FEDERAL LAW.

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

Chapter 151 Section 1 Laws 2015

SECTION 1. Section 21-1-4.5 NMSA 1978 (being Laws 2005, Chapter 168, Section 1, as amended) is amended to read:

"21-1-4.5. RESIDENT TUITION FOR VETERANS OF THE ARMED FORCES OF THE UNITED STATES AND FAMILIES OF MEMBERS OF THE ARMED FORCES.--

A. A veteran of the armed forces of the United States shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning, provided that the veteran is eligible for veterans' education benefits under federal law. In order for a veteran who is not a resident of New Mexico to receive in-state tuition rates, the veteran shall use the veteran's federal educational benefits at a state public post-secondary institution.

B. A spouse or child of an active member of the armed forces who is assigned to duty in New Mexico shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning.

C. A spouse or child of an active member of the armed forces who is assigned to duty elsewhere immediately following assignment to duty in New Mexico shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning as long as the spouse or child resides continuously in New Mexico.

D. A spouse or child of an active member of the armed forces who dies or is killed shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning if the spouse or child becomes a resident of New Mexico within sixty days of the date of death.

E. A veteran of the armed forces who pays tuition and fees at the rate provided for New Mexico residents under this section is entitled to pay tuition and fees at the rate provided for New Mexico residents in any subsequent term or semester while the veteran is enrolled in a degree or certificate program.

F. If an active member of the armed forces is stationed outside New Mexico and the member's spouse or child establishes residence in New Mexico and files with a state institution of higher learning at which the spouse or child plans to register a letter of intent to establish and continue residing in New Mexico, the spouse or child shall be deemed an in-state resident for purposes of determining tuition and fees at that state institution of higher learning without regard to length of time that the spouse or child has resided in the state.

G. A spouse or child of an active member of the armed forces who pays tuition and fees at the rate provided for New Mexico residents under this section is entitled to pay tuition and fees at the rate provided for New Mexico residents in any subsequent term or semester while the person is continuously enrolled in the same degree or certificate program. For purposes of this subsection, a person is not required to enroll in a summer term to remain continuously enrolled in a degree or certificate program. A person's eligibility to pay tuition and fees at the rate provided for New Mexico residents under this subsection does not terminate because the person is no longer a child or spouse of a member of the armed forces.

H. A spouse or child of a veteran of the armed forces is entitled to pay tuition and fees at the rate provided for New Mexico residents; provided that the spouse or child is eligible for benefits pursuant to the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal law authorizing educational benefits for a veteran and the dependents of a veteran.

I. As used in this section, "armed forces" means the United States army, navy, air force, marine corps or coast guard.

J. As used in this section, "veteran" means a person who has been discharged under conditions other than dishonorable from service in the army, navy, marine corps, air force or coast guard of the United States."

House Bill 427

Approved April 10, 2015

LAWS 2015, CHAPTER 152

AN ACT

RELATING TO FORFEITURE; PROVIDING THAT FORFEITURE PURSUANT TO THE FORFEITURE ACT SHALL FOLLOW A CRIMINAL CONVICTION; REVISING SEIZURE AND FORFEITURE PROCEDURES; REQUIRING LAW ENFORCEMENT AGENCIES TO SUBMIT ANNUAL REPORTS RELATING TO FORFEITURE; PROVIDING FOR THE TRANSFER OF SEIZED PROPERTY; EXCLUDING CONTRABAND FROM THE FORFEITURE ACT; REQUIRING FORFEITURE PROCEEDINGS TO FOLLOW A RELATED CRIMINAL PROCEEDING; PROVIDING FOR PROCEEDS FROM THE SALE OF FORFEITED AND ABANDONED PROPERTY AND FORFEITED CURRENCY TO BE DEPOSITED IN THE GENERAL FUND; PROVIDING FOR AN INNOCENT OWNER TO ASSERT AN INTEREST IN SEIZED PROPERTY.

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

Chapter 152 Section 1 Laws 2015

SECTION 1. Section 31-27-1 NMSA 1978 (being Laws 2002, Chapter 4, Section 1) is amended to read:

"31-27-1. SHORT TITLE.--Chapter 31, Article 27 NMSA 1978 may be cited as the "Forfeiture Act"."

Chapter 152 Section 2 Laws 2015

SECTION 2. Section 31-27-2 NMSA 1978 (being Laws 2002, Chapter 4, Section 2) is amended to read:

"31-27-2. PURPOSE OF ACT--APPLICABILITY--NO ADDITIONAL REMEDIES.-

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A. The purposes of the Forfeiture Act are to:

(1) make uniform the standards and procedures for the seizure and forfeiture of property subject to forfeiture;

(2) protect the constitutional rights of persons whose property is subject to forfeiture and of innocent owners holding interests in property subject to forfeiture;

(3) deter criminal activity by reducing its economic incentives;

(4) increase the pecuniary loss from criminal activity;

(5) protect against the wrongful forfeiture of property; and

(6) ensure that only criminal forfeiture is allowed in this state.

B. The Forfeiture Act:

(1) applies to seizures, forfeitures and dispositions of property subject to forfeiture pursuant to laws that specifically apply the Forfeiture Act; and

(2) does not apply to contraband, which is subject to seizure pursuant to applicable state laws, but is not subject to forfeiture pursuant to the Forfeiture Act."

Chapter 152 Section 3 Laws 2015

SECTION 3. Section 31-27-3 NMSA 1978 (being Laws 2002, Chapter 4, Section 3) is amended to read:

"31-27-3. DEFINITIONS.--As used in the Forfeiture Act:

A. "abandoned property":

(1) means personal property the rights to which and the control of which an owner has intentionally relinquished; and

(2) does not mean real property;

B. "actual knowledge" means a direct and clear awareness of information, a fact or a condition;

C. "contraband" means goods that may not be lawfully imported, exported or possessed, including drugs that are listed in Schedule I, II, III, IV or V of the Controlled Substances Act and that are possessed without a valid prescription;

D. "conveyance" means a device used for transportation and:

(1) includes a motor vehicle, trailer, snowmobile, airplane, vessel and any equipment attached to the conveyance; but

(2) does not include property that is stolen or taken in violation of a law;

E. "conviction" or "convicted" means that a person has been found guilty of a crime in a trial court whether by a plea of guilty or nolo contendere or otherwise and whether the sentence is deferred or suspended;

F. "crime" means a violation of a criminal statute for which property of the offender is subject to seizure and forfeiture;

G. "instrumentality" means all property that is otherwise lawful to possess that is used in the furtherance or commission of an offense to which forfeiture applies and includes land, a building, a container, a conveyance, equipment, materials, a product, a computer, computer software, a telecommunications device, a firearm, ammunition, a tool, money, a security and a negotiable instrument and other devices used for exchange of property;

H. "law enforcement agency" means the employer of a law enforcement officer that is authorized to seize or has seized property pursuant to the Forfeiture Act;

I. "law enforcement officer" means:

(1) a state or municipal police officer, county sheriff, deputy sheriff, conservation officer, motor transportation enforcement officer or other state employee authorized by state law to enforce criminal statutes; but

(2) does not mean a correctional officer;

J. "owner" means a person who has a legal or equitable ownership interest in property;

K. "property" means tangible or intangible personal property or real property;

L. "property subject to forfeiture" means property or an instrumentality described and declared to be subject to forfeiture by the Forfeiture Act or a state law outside of the Forfeiture Act; and

M. "secured party" means a person with a security or other protected interest in property, whether the interest arose by mortgage, security agreement, lien, lease or otherwise; the purpose of which interest is to secure the payment of a debt or protect a potential debt owed to the secured party."

Chapter 152 Section 4 Laws 2015

SECTION 4. Section 31-27-4 NMSA 1978 (being Laws 2002, Chapter 4, Section 4) is amended to read:

"31-27-4. FORFEITURE--CONVICTION REQUIRED--SEIZURE OF PROPERTY--WITH PROCESS--WITHOUT PROCESS.--

A. A person's property is subject to forfeiture if:

(1) the person was arrested for an offense to which forfeiture applies;

(2) the person is convicted by a criminal court of the offense; and

(3) the state establishes by clear and convincing evidence that the property is subject to forfeiture as provided in Subsection B of this section.

B. Following a person's conviction for an offense to which forfeiture applies, a court may order the person to forfeit:

(1) property the person acquired through commission of the offense;

(2) property directly traceable to property acquired through the commission of the offense; and

(3) any instrumentality the person used in the commission of the offense.

C. Nothing in this section shall prevent property from being forfeited by the terms of a plea agreement that is approved by a court or by other agreement of the parties to a criminal proceeding.

D. Subject to the provisions of Section 31-27-5 NMSA 1978, at any time, at the request of the state, a court may issue an ex parte preliminary order to seize property that is subject to forfeiture and for which forfeiture is sought and to provide for the custody of the property. The execution on the order to seize the property and the return of the property, if applicable, are subject to the Forfeiture Act and other applicable state laws. Before issuing an order pursuant to this subsection, the court shall make a determination that:

(1) there is a substantial probability that:

(a) the property is subject to forfeiture;

(b) the state will prevail on the issue of forfeiture; and

(c) failure to enter the order will result in the property being destroyed, removed from the state or otherwise made unavailable for forfeiture; and

(2) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship to the owner and other parties known to be claiming interests in the property.

E. Property subject to forfeiture may be seized at any time, without a prior court order, if:

(1) the seizure is incident to a lawful arrest for a crime or a search lawfully conducted pursuant to a search warrant and the law enforcement officer making the arrest or executing the search has probable cause to believe the property is subject to forfeiture and that the subject of the arrest or search warrant is an owner of the property;

(2) the property subject to seizure is the subject of a previous judgment in favor of the state; or

(3) the law enforcement officer making the seizure has probable cause to believe the property is subject to forfeiture and that the delay occasioned by the need to obtain a court order would result in the removal or destruction of the property or otherwise frustrate the seizure."

Chapter 152 Section 5 Laws 2015

SECTION 5. A new Section 31-27-4.1 NMSA 1978 is enacted to read:

"31-27-4.1. RECEIPT FOR SEIZED PROPERTY--REPLEVIN HEARING.--

A. When a law enforcement officer seizes property that is subject to forfeiture, the officer shall provide an itemized receipt to the person possessing the property or, in the absence of a person to whom the receipt could be given, shall leave the receipt in the place where the property was found, if possible.

B. Following the seizure of property, the defendant in the related criminal matter or another person who claims an interest in seized property may, at any time before sixty days prior to a related criminal trial, claim an interest in seized property by a motion to the court to issue a writ of replevin. A motion filed pursuant to this section shall include facts to support the person's alleged interest in the property.

C. A person who makes a timely motion pursuant to this section shall have a right to a hearing on the motion before the resolution of any related criminal matter or forfeiture proceeding and within thirty days of the date on which the motion is filed.

D. At least ten days before a hearing on a motion filed pursuant to this section, the state shall file an answer or responsive motion that shows probable cause for the seizure.

E. A court shall grant a claimant's motion if the court finds that:

(1) it is likely that the final judgment will require the state to return the property to the claimant;

(2) the property is not reasonably required to be held for investigatory reasons; or

(3) the property is the only reasonable means for a defendant to pay for legal representation in a related criminal or forfeiture proceeding.

F. In its discretion, the court may order the return of funds or property sufficient to obtain legal counsel but less than the total amount seized, and it may require an accounting.

G. In lieu of ordering the issuance of the writ of replevin, a court may order:

(1) the state to give security or written assurance for satisfaction of any judgment, including damages, that may be rendered in a related forfeiture action; or

(2) any other relief the court deems to be just."

Chapter 152 Section 6 Laws 2015

SECTION 6. Section 31-27-5 NMSA 1978 (being Laws 2002, Chapter 4, Section 5) is amended to read:

"31-27-5. COMPLAINT OF FORFEITURE--SERVICE OF PROCESS.--

A. Within thirty days of making a seizure of property or simultaneously upon filing a related criminal indictment, the state shall file a complaint of ancillary forfeiture proceedings or return the property to the person from whom it was seized. A complaint of ancillary forfeiture proceedings shall include:

(1) a description of the property seized;

(2) the date and place of seizure of the property;

(3) the name and address of the law enforcement agency making the seizure;

(4) the specific statutory and factual grounds for the seizure;

(5) whether the property was seized pursuant to an order of seizure, and if the property was seized without an order of seizure, an affidavit from a law enforcement officer stating the legal and factual grounds why an order of seizure was not required; and

(6) in the complaint caption and in the complaint, the names of persons known to the state who may claim an interest in the property and the basis for each person's alleged interest.

B. The complaint shall be served upon the person from whom the property was seized, the person's attorney of record and all persons known or reasonably believed by the state to claim an interest in the property. A copy of the complaint shall also be published at least three times in a newspaper of general circulation in the district of the court having jurisdiction or on the sunshine portal until the forfeiture proceeding is resolved."

Chapter 152 Section 7 Laws 2015

SECTION 7. Section 31-27-6 NMSA 1978 (being Laws 2002, Chapter 4, Section 6) is amended to read:

"31-27-6. FORFEITURE PROCEEDINGS--DETERMINATION--SUBSTITUTION OF PROPERTY--CONSTITUTIONALITY--APPEAL.--

A. A person who claims an interest in seized property shall file an answer to the complaint of forfeiture within thirty days of the date of service of the complaint. The answer shall include facts to support the claimant's alleged interest in the property.

B. The district courts have jurisdiction over forfeiture proceedings, and venue for a forfeiture proceeding is in the same court in which venue lies for the criminal matter related to the seized property.

C. The forfeiture proceeding shall begin after the conclusion of the trial for the related criminal matter in an ancillary proceeding that relates to a defendant's property before the same judge and jury, if applicable, and the court, and the jury, if applicable, may consider the forfeiture of property seized from other persons at the same time or in a later proceeding. If the criminal defendant in the related criminal matter is represented by the public defender department, the chief public defender or the district public defender may authorize department representation of the defendant in the forfeiture proceeding.

D. Discovery conducted in an ancillary forfeiture proceeding is subject to the rules of criminal procedure.

E. An ancillary forfeiture proceeding that relates to the forfeiture of property valued at less than twenty thousand dollars (\$20,000) shall be held before a judge only.

F. If the state fails to prove, by clear and convincing evidence, that a person whose property is alleged to be subject to forfeiture is an owner of the property:

(1) the forfeiture proceeding shall be dismissed and the property shall be delivered to the owner, unless the owner's possession of the property is illegal; and

(2) the owner shall not be subject to any charges by the state for storage of the property or expenses incurred in the preservation of the property.

G. The court shall enter a judgment of forfeiture and the seized property shall be forfeited to the state if the state proves by clear and convincing evidence that:

(1) the property is subject to forfeiture;

(2) the criminal prosecution of the owner of the seized property resulted in a conviction; and

(3) the value of the property to be forfeited does not unreasonably exceed:

(a) the pecuniary gain derived or sought to be derived by the crime;

(b) the pecuniary loss caused or sought to be caused by the crime; or

(c) the value of the convicted owner's interest in the property.

H. A court shall not accept a plea agreement or other arrangement by which a defendant contributes or donates property to a person, charity or other organization in full or partial fulfillment of responsibility established in the court's proceeding.

I. Following a person's conviction, the state may make a motion for forfeiture of substitute property owned by the person that is equal to but does not exceed the value of property that is subject to forfeiture but that the state is unable to seize. The court shall order the forfeiture of substitute property only if the state proves by a preponderance of the evidence that the person intentionally transferred, sold or deposited property with a third party to avoid the court's jurisdiction and the forfeiture of the property.

J. A person is not jointly and severally liable for orders for forfeiture of another person's property. When ownership of property is unclear, a court may order each person to forfeit the person's property on a pro rata basis or by another means the court deems equitable.

K. At any time following the conclusion of a forfeiture proceeding, the person whose property was forfeited may petition the court to determine whether the forfeiture was unconstitutionally excessive pursuant to the state or federal constitution.

L. At a non-jury hearing on the petition, the petitioner has the burden of establishing by a preponderance of the evidence that the forfeiture was grossly disproportional to the seriousness of the criminal offense for which the person was convicted.

M. In determining whether the forfeiture is unconstitutionally excessive, the court may consider all relevant factors, including:

(1) the seriousness of the criminal offense and its impact on the community, the duration of the criminal activity and the harm caused by the defendant;

(2) the extent to which the defendant participated in the offense;

(3) the extent to which the property was used in committing the offense;

(4) the sentence imposed for the commission of the crime that relates to the property that is subject to forfeiture; and

(5) whether the criminal offense was completed or attempted.

N. In determining the value of the property subject to forfeiture, the court may consider relevant factors, including the:

(1) fair market value of the property;

(2) value of the property to the defendant, including hardship that the defendant will suffer if the forfeiture is realized; and

(3) hardship from the loss of a primary residence, motor vehicle or other property to the defendant's family members or others if the property is forfeited.

O. The court shall not consider the value of the property to the state when it determines whether the forfeiture of property is constitutionally excessive.

P. A party to a forfeiture proceeding may appeal a district court's decision regarding the seizure, forfeiture and distribution of property pursuant to the Forfeiture Act."

Chapter 152 Section 8 Laws 2015

SECTION 8. Section 31-27-7 NMSA 1978 (being Laws 2002, Chapter 4, Section 7) is amended to read:

"31-27-7. TITLE TO SEIZED PROPERTY--DISPOSITION OF FORFEITED PROPERTY AND PROCEEDS.--

A. The state acquires provisional title to seized property at the time the property was used or acquired in connection with an offense that subjects the property to forfeiture. Provisional title authorizes the state to hold and protect the property. Title to the property shall vest with the state when a trier of fact renders a final forfeiture verdict and the title relates back to the time when the state acquired provisional title; provided that the title is subject to claims by third parties that are adjudicated pursuant to the Forfeiture Act.

B. Unless possession of the property is illegal or a different disposition is specifically provided for by law and except as provided in this section, forfeited property that is not currency shall be delivered along with any abandoned property to the state treasurer for disposition at a public auction. Forfeited currency and all sale proceeds of the sale of forfeited or abandoned property shall be deposited in the general fund.

C. Proceeds from the sale of forfeited property received by the state from another jurisdiction shall be deposited in the general fund.

D. A property interest forfeited to the state pursuant to the Forfeiture Act is subject to the interest of a secured party unless, in the forfeiture proceeding, the state proves by clear and convincing evidence that the secured party had actual knowledge of the crime that relates to the seizure of the property."

Chapter 152 Section 9 Laws 2015

SECTION 9. A new Section 31-27-7.1 NMSA 1978 is enacted to read:

"31-27-7.1. INNOCENT OWNERS.--

A. The property of an innocent owner, as provided in this section, shall not be forfeited.

B. A person who claims to be an innocent owner has the burden of production to show that the person:

(1) holds a legal right, title or interest in the property seized; and

(2) held an ownership interest in the seized property at the time the illegal conduct that gave rise to the seizure of the property occurred or was a bona fide purchaser for fair value.

C. The state shall immediately return property to an established innocent owner who has an interest in homesteaded property, a motor vehicle valued at less than ten thousand dollars (\$10,000) or a conveyance that is encumbered by a security interest that was perfected pursuant to state law or that is subject to a lease or rental agreement, unless the secured party or lessor had actual knowledge of the criminal act upon which the forfeiture was based.

D. If a person establishes that the person is an innocent owner pursuant to Subsection B of Section 31-27-7.1 NMSA 1978 and the state pursues a forfeiture proceeding with respect to that person's property, other than property described in Subsection D of Section 31-27-7 NMSA 1978, to successfully forfeit the property, the state shall prove by clear and convincing evidence that the innocent owner had actual knowledge of the underlying crime giving rise to the forfeiture.

E. A person who acquired an ownership interest in property subject to forfeiture after the commission of a crime that gave rise to the forfeiture and who claims to be an innocent owner has the burden of production to show that the person has legal right, title or interest in the property seized under this section.

F. If a person establishes that the person is an innocent owner as provided in Subsection B of this section and the state pursues a forfeiture proceeding against the person's property, to successfully forfeit the property, the state shall prove by clear and convincing evidence that at the time the person acquired the property, the person:

(1) had actual knowledge that the property was subject to forfeiture;

or

(2) was not a bona fide purchaser who was without notice of any defect in title and who gave valuable consideration.

G. If the state fails to meet its burdens as provided in Subsections C and D of this section, the court shall find that the person is an innocent owner and shall order the state to relinquish all claims of title to the innocent owner's property."

Chapter 152 Section 10 Laws 2015

SECTION 10. Section 31-27-8 NMSA 1978 (being Laws 2002, Chapter 4, Section 8) is amended to read:

"31-27-8. SAFEKEEPING OF SEIZED PROPERTY PENDING DISPOSITION--
SELLING OR RETAINING SEIZED PROPERTY PROHIBITED.--

A. Seized currency alleged to be subject to forfeiture shall be deposited with the clerk of the district court in an interest-bearing account.

B. Seized property other than currency or real property, not required by federal or state law to be destroyed, shall be:

- (1) placed under seal; and
- (2) removed to a place designated by the district court; or
- (3) held in the custody of a law enforcement agency.

C. Seized property shall be kept by the custodian in a manner to protect it from theft or damage and, if ordered by the district court, insured against those risks.

D. A law enforcement agency shall not retain forfeited or abandoned property."

Chapter 152 Section 11 Laws 2015

SECTION 11. A new section of the Forfeiture Act is enacted to read:

"REPORTING.--

A. Every law enforcement agency shall prepare an annual report of the agency's seizures and forfeitures conducted pursuant to the Forfeiture Act, and seizures and forfeitures conducted pursuant to federal forfeiture law, and the report shall include:

- (1) the total number of seizures of currency and the total amount of currency seized in each seizure;
- (2) the total number of seizures of property and the number and types of items seized in each seizure;
- (3) the market value of each item of property seized; and
- (4) the total number of occurrences of each class of crime that resulted in the agency's seizure of property.

B. A law enforcement agency shall submit its annual reports to the department of public safety and to the district attorney's office in the agency's district. An agency that did not engage in seizure or forfeiture pursuant to the Forfeiture Act or federal forfeiture law, or both, shall report that fact in its annual report.

C. The department of public safety shall compile the reports submitted by each law enforcement agency and issue an aggregate report of all forfeitures in the state.

D. By April 1 of each year, the department of public safety shall publish on its web site the department's aggregate report and individual law enforcement agency reports submitted for the previous year."

Chapter 152 Section 12 Laws 2015

SECTION 12. A new section of the Forfeiture Act is enacted to read:

"RETURN OF PROPERTY--DAMAGES--COSTS.--

A. A law enforcement agency that holds seized property shall return the seized property to the owner of the property within a reasonable period of time that does not exceed five days after:

(1) a court finds that a person had a bona fide security interest in the property;

(2) a court finds that the owner was an innocent owner;

(3) the acquittal of or dismissal of related criminal charges against the owner of the property; or

(4) the disposal of the criminal charge that was the basis of the forfeiture proceedings by nolle prosequi.

B. A law enforcement agency that holds seized property is responsible for any damages, storage fees and related costs applicable to property that is returned to an owner pursuant to this section."

Chapter 152 Section 13 Laws 2015

SECTION 13. A new section of the Forfeiture Act is enacted to read:

"TRANSFER OF FORFEITABLE PROPERTY TO THE FEDERAL GOVERNMENT.--

A. A law enforcement agency shall not directly or indirectly transfer seized property to a federal law enforcement authority or other federal agency unless:

(1) the value of the seized property exceeds fifty thousand dollars (\$50,000), excluding the potential value of the sale of contraband; and

(2) the law enforcement agency determines that the criminal conduct that gave rise to the seizure is interstate in nature and sufficiently complex to justify the transfer of the property; or

(3) the seized property may only be forfeited under federal law.

B. The law enforcement agency shall not transfer property to the federal government if the transfer would circumvent the protections of the Forfeiture Act that would otherwise be available to a putative interest holder in the property."

Chapter 152 Section 14 Laws 2015

SECTION 14. Section 18-6-11 NMSA 1978 (being Laws 1977, Chapter 75, Section 1, as amended) is amended to read:

"18-6-11. PERMIT REQUIRED FOR EXCAVATION OF ARCHAEOLOGICAL SITES--PENALTY.--

A. It is unlawful for a person or the person's agent or employee to excavate with the use of mechanical earthmoving equipment an archaeological site for the purpose of collecting or removing objects of antiquity if the archaeological site is located on private land in this state, unless the person has first obtained a permit issued pursuant to the provisions of this section for the excavation. As used in this section, "archaeological site" means a location where there exists material evidence of the past life and culture of human beings in this state but excludes the sites of burial of human beings.

B. Permits for excavation pursuant to Subsection A of this section may be issued by the committee upon approval by the state archaeologist and the state historic preservation officer if the applicant:

(1) submits written authorization for the excavation from the owner of the land;

(2) furnishes satisfactory evidence of being qualified to perform the archaeological excavation by experience, training and knowledge;

(3) submits a satisfactory plan of excavation for the archaeological site and states in the plan the method by which excavation will be undertaken; and

(4) agrees in writing, upon the completion of the excavation, to submit a summary report to the committee of the excavation, which report shall contain relevant maps, documents, drawings and photographs, together with a description of the archaeological specimens removed as a result of the excavation. Failure to file the summary report shall be grounds for refusing issuance of a future permit to the person.

C. All archaeological specimens collected or removed from the archaeological site as a result of excavation pursuant to Subsections A and B of this section shall be the property of the person owning the land on which the site is located.

D. Nothing in this section shall be deemed to limit or prohibit the use of the land on which the archaeological site is located by the owner of the land or to require the owner to obtain a permit for personal excavation on the owner's own land; provided that no transfer of ownership is made with the intent of excavating archaeological sites as prohibited in this section; and provided further that this exemption does not apply to marked or unmarked burial grounds.

E. A person convicted of violating the provisions of this section is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000) and, in accordance with the provisions of the Forfeiture Act, shall forfeit to the state all equipment used in committing the violation for which the person is convicted."

Chapter 152 Section 15 Laws 2015

SECTION 15. Section 18-6-11.2 NMSA 1978 (being Laws 1989, Chapter 267, Section 1) is amended to read:

"18-6-11.2. PERMIT REQUIRED FOR EXCAVATION OF UNMARKED BURIALS--PENALTY.--

A. Each human burial in the state interred in any unmarked burial ground is accorded the protection of law and shall receive appropriate and respectful treatment and disposition.

B. A person who knowingly, willfully and intentionally excavates, removes, disturbs or destroys any human burial buried, entombed or sepulchered in any unmarked burial ground in the state, or any person who knowingly, willfully and intentionally procures or employs any other person to excavate, remove, disturb or destroy any human burial buried, entombed or sepulchered in any unmarked burial ground in the state, except by authority of a permit issued by the state medical investigator or by the committee with the concurrence of the state archaeologist and state historic preservation officer, is guilty of a fourth degree felony and shall be punished by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment for a definite term of eighteen months or both. The offender shall upon conviction forfeit to the state all objects, artifacts and human burials excavated or removed from an unmarked burial ground in violation of this section, and any proceeds from the sale by the offender of any of the foregoing shall also be forfeited. The provisions of the Forfeiture Act shall apply to a forfeiture provided for in this section. As used in this section:

(1) "unmarked burial ground" means a location where there exists a burial of any human being that is not visibly marked on the surface of the ground in any

manner traditionally or customarily used for marking burials and includes any funerary object, material object or artifact associated with the burial; and

(2) "human burial" means a human body or human skeletal remains and includes any funerary object, material object or artifact buried, entombed or sepulchered with that human body or skeletal remains.

C. Any person who discovers a human burial in any unmarked burial ground shall cease any activity that may disturb that burial or any object or artifact associated with that burial and shall notify the local law enforcement agency having jurisdiction in the area. The local law enforcement agency shall notify the state medical investigator and the state historic preservation officer.

D. The state medical investigator may, consistent with the statutes governing medical investigations, have authority over or take possession of any human burial discovered in the state, in which case the provisions of Subsections E and F of this section shall not apply.

E. Permits for excavation of a human burial discovered in an unmarked burial ground shall be issued by the committee within sixty days of receipt of application when the applicant:

(1) submits written authorization for that excavation from the owner of the land on which the human burial is located or the applicant is the owner of the land;

(2) demonstrates appropriate efforts to determine the age of the human burial and to identify and consult with any living person who may be related to the human burial interred in the unmarked burial ground;

(3) complies with permit procedures and requirements established by regulations authorized in this section to ensure the complete removal of the human burial and the collection of all pertinent scientific information in accordance with proper archaeological methods; and

(4) provides for the lawful disposition or reinterment of the human burial either in the original or another appropriate location and of any objects or artifacts associated with that human burial, consistent with regulations issued by the state historic preservation officer, except that the committee shall not require, as a condition of issuance of a permit, reinterment or disposition, any action that unduly interferes with the owner's use of the land.

F. Permits for the excavation of any human burial discovered in the course of construction or other land modification may be issued by the committee with the concurrence of the state archaeologist and the state historic preservation officer on an annual basis to professional archaeological consultants or organizations.

G. Except when the committee requires as a condition of the permit that any object or artifact associated with a human burial be reinterred or disposed of with that burial, that object or artifact shall be the property of the person owning the land on which that burial is located.

H. Any object or artifact and any human burial excavated or removed from an unmarked burial ground in violation of this section shall be forfeited to the state and shall be lawfully disposed of or reinterred in accordance with regulations issued by the state historic preservation officer; provided that no object or artifact so forfeited shall ever be sold by the state; and provided further that any object or artifact removed from the land without the owner's consent and in violation of this section shall be returned to the lawful owner consistent with Subsection G of this section.

I. The state historic preservation officer shall issue regulations with the concurrence of the state medical investigator for the implementation of this section."

Chapter 152 Section 16 Laws 2015

SECTION 16. Section 30-16B-8 NMSA 1978 (being Laws 1991, Chapter 112, Section 8) is amended to read:

"30-16B-8. FORFEITURES--PROPERTY SUBJECT.--Pursuant to the provisions of the Forfeiture Act, the following are subject to forfeiture:

A. all equipment, devices or articles that have been produced, reproduced, manufactured, distributed, dispensed or acquired in violation of the Unauthorized Recording Act;

B. all devices, materials, products and equipment of any kind that are used or intended for use in producing, reproducing, manufacturing, processing, delivering, importing or exporting any item set forth in and in violation of the Unauthorized Recording Act;

C. all books, business records, materials and other data that are used or intended for use in violation of Section 30-16B-3, 30-16B-4 or 30-16B-5 NMSA 1978; and

D. money or negotiable instruments that are the fruit or instrumentality of the crime."

Chapter 152 Section 17 Laws 2015

SECTION 17. Section 30-31-34 NMSA 1978 (being Laws 1972, Chapter 84, Section 33, as amended) is amended to read:

"30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following are subject to forfeiture pursuant to the provisions of the Forfeiture Act:

A. all raw materials, products and equipment of any kind, including firearms that are used or intended for use in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance or controlled substance analog in violation of the Controlled Substances Act;

B. all property that is used or intended for use as a container for property described in Subsection A of this section;

C. all conveyances, including aircraft, vehicles or vessels that are used or intended for use to transport or in any manner to facilitate the transportation for the purpose of sale of property described in Subsection A of this section;

D. all books, records and research products and materials, including formulas, microfilm, tapes and data that are used or intended for use in violation of the Controlled Substances Act;

E. narcotics paraphernalia or money that is a fruit or instrumentality of the crime;

F. notwithstanding Subsection C of this section and the provisions of the Forfeiture Act:

(1) a conveyance used by a person as a common carrier in the transaction of business as a common carrier shall not be subject to forfeiture pursuant to this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of the Controlled Substances Act;

(2) a conveyance shall not be subject to forfeiture pursuant to this section by reason of an act or omission established for the owner to have been committed or omitted without the owner's knowledge or consent;

(3) a conveyance is not subject to forfeiture for a violation of law the penalty for which is a misdemeanor; and

(4) a forfeiture of a conveyance encumbered by a bona fide security interest shall be subject to the interest of a secured party if the secured party neither had knowledge of nor consented to the act or omission; and

G. all drug paraphernalia as defined by Subsection V of Section 30-31-2 NMSA 1978."

Chapter 152 Section 18 Laws 2015

SECTION 18. Section 30-31-35 NMSA 1978 (being Laws 1972, Chapter 84, Section 34, as amended) is amended to read:

"30-31-35. FORFEITURE--PROCEDURE.--The provisions of the Forfeiture Act apply to the seizure, forfeiture and disposal of property subject to forfeiture and disposal pursuant to the Controlled Substances Act."

Chapter 152 Section 19 Laws 2015

SECTION 19. Section 30-31A-9 NMSA 1978 (being Laws 1983, Chapter 148, Section 9) is amended to read:

"30-31A-9. FORFEITURES--PROPERTY SUBJECT.--The following are subject to forfeiture:

A. all raw materials, products and equipment of any kind that are used in the manufacturing, compounding or processing of any imitation controlled substance in violation of the Imitation Controlled Substances Act;

B. all property that is used or intended for use as a container for property described in Subsection A of this section; and

C. all books, records and research products and materials, including formulas, microfilm, tapes and data, that are used or intended for use in violation of the Imitation Controlled Substances Act."

Chapter 152 Section 20 Laws 2015

SECTION 20. Section 30-42-4 NMSA 1978 (being Laws 1980, Chapter 40, Section 4, as amended) is amended to read:

"30-42-4. PROHIBITED ACTIVITIES--PENALTIES.--

A. It is unlawful for a person who has received proceeds derived, directly or indirectly, from a pattern of racketeering activity in which the person has participated, to use or invest, directly or indirectly, any part of the proceeds or the proceeds derived from the investment or use in the acquisition of an interest in, or the establishment or operation of, an enterprise. Whoever violates this subsection is guilty of a second degree felony.

B. It is unlawful for a person to engage in a pattern of racketeering activity in order to acquire or maintain, directly or indirectly, an interest in or control of an enterprise. Whoever violates this subsection is guilty of a second degree felony.

C. It is unlawful for a person employed by or associated with an enterprise to conduct or participate, directly or indirectly, in the conduct of the enterprise's affairs

by engaging in a pattern of racketeering activity. Whoever violates this subsection is guilty of a second degree felony.

D. It is unlawful for a person to conspire to violate the provisions of Subsections A through C of this section. Whoever violates this subsection is guilty of a third degree felony.

E. Whoever is convicted of a violation of Subsection A, B, C or D of this section in addition to the prescribed penalties shall forfeit to the state of New Mexico:

(1) any interest acquired or maintained in violation of the Racketeering Act; and

(2) any interest in, security of, claim against or property or contractual right of any kind affording a source of influence over an enterprise that the person has established, operated, controlled, conducted or participated in the conduct of in violation of the Racketeering Act.

F. The provisions of the Forfeiture Act apply to the seizure, forfeiture and disposal of property described in Subsection E of this section."

Chapter 152 Section 21 Laws 2015

SECTION 21. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 560, aa, w/cc

Approved April 10, 2015

LAWS 2015, CHAPTER 153

AN ACT

RELATING TO HEALTH; AMENDING THE PUBLIC HEALTH ACT TO PROVIDE FOR THE LICENSURE BY THE DEPARTMENT OF HEALTH OF FREESTANDING BIRTH CENTERS.

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

Chapter 153 Section 1 Laws 2015

SECTION 1. Section 24-1-2 NMSA 1978 (being Laws 1973, Chapter 359, Section 2, as amended by Laws 2007, Chapter 325, Section 6 and by Laws 2007, Chapter 326, Section 1) is amended to read:

"24-1-2. DEFINITIONS.--As used in the Public Health Act:

A. "department" or "division" means the children, youth and families department as to child care centers, residential treatment centers that serve persons up to twenty-one years of age, community mental health centers that serve only persons up to twenty-one years of age, day treatment centers that serve persons up to twenty-one years of age, shelter care homes and those outpatient facilities that are also community-based behavioral health facilities serving only persons up to twenty-one years of age and the department of health as to all other health facilities, unless otherwise designated;

B. "director" means the secretary;

C. "person", when used without further qualification, means an individual or any other form of entity recognized by law;

D. "health facility" means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, maternity home or shelter, freestanding birth center, adult daycare facility, nursing home, intermediate care facility, boarding home not under the control of an institution of higher learning, child care center, shelter care home, diagnostic and treatment center, rehabilitation center, infirmary, community mental health center that serves both children and adults or adults only, residential treatment center that serves persons up to twenty-one years of age, community mental health center that serves only persons up to twenty-one years of age and day treatment center that serves persons up to twenty-one years of age or a health service organization operating as a freestanding hospice or a home health agency. The designation of these entities as health facilities is only for the purposes of definition in the Public Health Act and does not imply that a freestanding hospice or a home health agency is considered a health facility for the purposes of other provisions of state or federal laws. "Health facility" also includes those facilities that, by federal regulation, must be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding. It does not include the offices and treatment rooms of licensed private practitioners; and

E. "secretary" means the secretary of children, youth and families as to child care centers, residential treatment centers that serve persons up to twenty-one years of age, community mental health centers that serve only persons up to twenty-one years of age, day treatment centers that serve persons up to twenty-one years of age, shelter care homes and those outpatient facilities that are also community-based behavioral health facilities serving only persons up to twenty-one years of age and the secretary of health as to all other health facilities."

Chapter 153 Section 2 Laws 2015

SECTION 2. Section 24-1-5 NMSA 1978 (being Laws 1973, Chapter 359, Section 5, as amended) is amended to read:

"24-1-5. LICENSURE OF HEALTH FACILITIES--HEARINGS--APPEALS.--

A. A health facility shall not be operated without a license issued by the department. If a health facility is found to be operating without a license, in order to protect human health or safety, the secretary may issue a cease-and-desist order. The health facility may request a hearing that shall be held in the manner provided in this section. The department may also proceed pursuant to the Health Facility Receivership Act.

B. The department is authorized to make inspections and investigations and to prescribe rules it deems necessary or desirable to promote the health, safety and welfare of persons using health facilities.

C. Except as provided in Subsection F of this section, upon receipt of an application for a license to operate a health facility, the department shall promptly inspect the health facility to determine if it is in compliance with all rules of the department. Applications for hospital licenses shall include evidence that the bylaws or rules of the hospital apply equally to osteopathic and medical physicians. The department shall consolidate the applications and inspections for a hospital that also operates as a hospital-based primary care clinic.

D. Upon inspection of a health facility, if the department finds a violation of its rules, the department may deny the application for a license, whether initial or renewal, or it may issue a temporary license. A temporary license shall not be issued for a period exceeding one hundred twenty days, nor shall more than two consecutive temporary licenses be issued.

E. A one-year nontransferable license shall be issued to any health facility complying with all rules of the department. The license shall be renewable for successive one-year periods, upon filing of a renewal application, if the department is satisfied that the health facility is in compliance with all rules of the department or, if not in compliance with a rule, has been granted a waiver or variance of that rule by the department pursuant to procedures, conditions and guidelines adopted by rule of the department. Licenses shall be posted in a conspicuous place on the licensed premises, except that child care centers that receive no state or federal funds may apply for and receive from the department a waiver from the requirement that a license be posted or kept on the licensed premises.

F. A health facility that has been inspected and licensed by the department, that has received certification for participation in federal reimbursement programs and that has been fully accredited by a national accrediting organization

approved by the federal centers for medicare and medicaid services or the department shall be granted a license renewal based on that accreditation. A freestanding birth center that has been inspected and licensed by the department and is accredited by the commission for accreditation of birth centers or its successor accreditation body shall be granted a license renewal based on that accreditation. Health facilities receiving less than full accreditation by an approved accrediting body may be granted a license renewal based on that accreditation. License renewals shall be issued upon application submitted by the health facility upon forms prescribed by the department. This subsection does not limit in any way the department's various duties and responsibilities under other provisions of the Public Health Act or under any other subsection of this section, including any of the department's responsibilities for the health and safety of the public.

G. The department may charge a reasonable fee not to exceed twelve dollars (\$12.00) per bed for an inpatient health facility or three hundred dollars (\$300) for any other health facility for each license application, whether initial or renewal, of an annual license or the second consecutive issuance of a temporary license. Fees collected shall not be refundable. All fees collected pursuant to licensure applications shall be deposited with the state treasurer for credit in a designated department recurring account for use in health facility licensure and certification operations.

H. The department may revoke or suspend the license of a health facility or may impose on a health facility an intermediate sanction and a civil monetary penalty provided in Section 24-1-5.2 NMSA 1978 after notice and an opportunity for a hearing before a hearing officer designated by the department to hear the matter and, except for child care centers and facilities, may proceed pursuant to the Health Facility Receivership Act upon a determination that the health facility is not in compliance with any rule of the department. If immediate action is required to protect human health and safety, the secretary may suspend a license or impose an intermediate sanction pending a hearing, provided the hearing is held within five working days of the suspension or imposition of the sanction, unless waived by the licensee, and, except for child care centers and facilities, may proceed ex parte pursuant to the Health Facility Receivership Act.

I. The department shall schedule a hearing pursuant to Subsection H of this section if the department receives a request for a hearing from a licensee:

(1) within ten working days after receipt by the licensee of notice of suspension, revocation, imposition of an intermediate sanction or civil monetary penalty or denial of an initial or renewal application;

(2) within four working days after receipt by the licensee of an emergency suspension order or emergency intermediate sanction imposition and notice of hearing if the licensee wishes to waive the early hearing scheduled and request a hearing at a later date; or

(3) within five working days after receipt of a cease-and-desist order.

The department shall also provide timely notice to the licensee of the date, time and place of the hearing, identity of the hearing officer, subject matter of the hearing and alleged violations.

J. A hearing held pursuant to provisions of this section shall be conducted in accordance with adjudicatory hearing rules and procedures adopted by rule of the department. The licensee has the right to be represented by counsel, to present all relevant evidence by means of witnesses and books, papers, documents, records, files and other evidence and to examine all opposing witnesses who appear on any matter relevant to the issues. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum prior to or after the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents, records, files and other evidence. Documents or records pertaining to abuse, neglect or exploitation of a resident, client or patient of a health facility or other documents, records or files in the custody of the human services department or the office of the state long-term care ombudsman at the aging and long-term services department that are relevant to the alleged violations are discoverable and admissible as evidence in any hearing.

K. Any party may appeal the final decision of the department pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

L. A complaint about a health facility received by the department pursuant to this section shall be promptly investigated and appropriate action shall be taken if substantiated. The department shall develop a health facilities protocol in conjunction with the human services department, the protective services division of the children, youth and families department, the office of the state long-term care ombudsman and other appropriate agencies to ensure the health, safety and rights of individuals in health facilities. The health facilities protocol shall require:

(1) cross-reference among agencies pursuant to this subsection of an allegation of abuse, neglect or exploitation;

(2) an investigation, within the strict priority time frames established by each protocol member's rules, of an allegation or referral of abuse, neglect or exploitation after the department has made a good cause determination that abuse, neglect or exploitation occurred;

(3) an agency to share its investigative information and findings with other agencies, unless otherwise prohibited by law; and

(4) require the receiving agency to accept the information provided pursuant to Paragraph (3) of this subsection as potential evidence to initiate and conduct investigations.

M. A complaint received by the department pursuant to this section shall not be disclosed publicly in a manner as to identify any individuals or health facilities if upon investigation the complaint is unsubstantiated.

N. Notwithstanding any other provision of this section, when there are reasonable grounds to believe that a child is in imminent danger of abuse or neglect while in the care of a child care facility, whether or not licensed, or upon the receipt of a report pursuant to Section 32A-4-3 NMSA 1978, the department shall consult with the owner or operator of the child care facility. Upon a finding of probable cause, the department shall give the owner or operator notice of its intent to suspend operation of the child care facility and provide an opportunity for a hearing to be held within three working days, unless waived by the owner or operator. Within seven working days from the day of notice, the secretary shall make a decision, and, if it is determined that any child is in imminent danger of abuse or neglect in the child care facility, the secretary may suspend operation of the child care facility for a period not in excess of fifteen days. Prior to the date of the hearing, the department shall make a reasonable effort to notify the parents of children in the child care facility of the notice and opportunity for hearing given to the owner or operator.

O. Nothing contained in this section or in the Public Health Act shall authorize either the secretary or the department to make any inspection or investigation or to prescribe any rules concerning group homes as defined in Section 9-8-13 NMSA 1978 except as are reasonably necessary or desirable to promote the health and safety of persons using group homes."

House Bill 84, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 154

AN ACT

RELATING TO MOTOR VEHICLES; ENACTING A NEW SECTION OF THE MOTOR VEHICLE CODE TO CREATE A SPECIAL NEW MEXICO JUNIOR COLLEGE LICENSE PLATE; MAKING AN APPROPRIATION.

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

Chapter 154 Section 1 Laws 2015

SECTION 1. A new section of Chapter 66, Article 3 NMSA 1978 is enacted to read:

"SPECIAL NEW MEXICO JUNIOR COLLEGE 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 junior college.

B. For a fee of thirty-five dollars (\$35.00), which is in addition to the regular motor vehicle registration fees, the owner of a vehicle may apply for issuance of a special New Mexico junior college registration plate. The owner shall apply for and pay the fee each year to retain and renew the special New Mexico junior college registration plate.

C. Revenue from the additional fee for a special New Mexico junior college registration plate shall be distributed as follows:

(1) ten dollars (\$10.00) of the additional 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 New Mexico junior college logo; and

(2) twenty-five dollars (\$25.00) of the additional fee shall be distributed to and is appropriated to the higher education department to support education and instruction programs at New Mexico junior college."

Chapter 154 Section 2 Laws 2015

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

House Bill 107

Approved April 10, 2015

LAWS 2015, CHAPTER 155

AN ACT

RELATING TO HEALTH CARE; PROVIDING FOR THE DESIGNATION AND TRAINING OF LAY CAREGIVERS TO PROVIDE CARE TO PATIENTS AFTER DISCHARGE.

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

Chapter 155 Section 1 Laws 2015

SECTION 1. LAY CAREGIVER--AFTERCARE--DESIGNATION.--

A. A hospital shall provide each patient or the patient's legal guardian with an opportunity to designate one lay caregiver following the patient's admission into a hospital and before the patient's discharge to the patient's residence.

B. As soon as practicable, a hospital shall attempt to consult with a designated lay caregiver to prepare the lay caregiver to provide aftercare. The hospital shall provide the lay caregiver with a discharge plan for the patient that describes the patient's aftercare needs. This discharge plan:

(1) may include, but is not limited to:

(a) culturally competent training on how to provide care and tasks;

(b) medication management guidelines;

(c) aftercare guidelines; and

(d) an identification of tasks that the discharging health care provider specifies;

(2) shall reflect the active engagement of a patient or lay caregiver in the discharge planning process and incorporate a patient's goals and preferences as much as possible; and

(3) shall educate a lay caregiver in a manner that is consistent with current accepted practices and is based on an assessment of the lay caregiver's learning needs.

C. A hospital shall allow a patient to change the patient's designation of a lay caregiver in the event that the originally designated lay caregiver becomes unavailable, unwilling or unable to care for the patient.

D. Designation of an individual as a lay caregiver pursuant to this section does not obligate that individual to accept the role of lay caregiver for the patient.

E. The provisions of this section shall not be construed to require a patient to designate a lay caregiver.

F. In the event that a patient or a patient's legal guardian declines to designate a lay caregiver pursuant to this section, a hospital shall promptly document this refusal to designate a lay caregiver in the patient's medical record.

G. A hospital shall not allow the process of appointing or refusal or failure to appoint a lay caregiver for a patient to interfere with, delay or otherwise affect the services that the hospital provides to a patient.

H. In the event that a hospital is unable to contact a designated lay caregiver, this lack of contact shall not interfere with or otherwise affect an appropriate discharge of the patient.

I. The provisions of this section shall not be construed to:

(1) create a private right of action against a hospital, hospital employee, contractor having a contractual relationship with a hospital or duly authorized agent of a hospital; or

(2) remove the obligation of a third-party payer to cover any health care item or service that the third-party payer is obligated to provide to a patient pursuant to the terms of a valid agreement, insurance policy, plan or certificate of coverage or health maintenance organization contract.

J. A hospital, hospital employee, contractor having a contractual relationship with a hospital or duly authorized agent of a hospital shall not be held liable in any way for an act or omission of a lay caregiver.

K. As used in this section:

(1) "aftercare" means assistance provided in a private home by a designated lay caregiver to a patient after the patient's discharge from a hospital. "Aftercare" includes exclusively those tasks related to a patient's condition at the time of discharge that do not require the lay caregiver performing the tasks to be a licensed, certified or otherwise authorized health care provider;

(2) "discharge" means a patient's exit or release from a hospital to that patient's residence following an inpatient stay;

(3) "hospital" means a health facility licensed as a general acute hospital by the department of health;

(4) "lay caregiver" means an individual who is eighteen years of age or older, who has been designated as a lay caregiver pursuant to this section and who provides aftercare to a patient in the patient's residence; and

(5) "residence" means a dwelling considered by a patient to be the patient's home, not including a hospital, nursing home or group home or assisted living facility.

House Bill 139, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 156

AN ACT

RELATING TO HEALTH CARE; EXCEPTING A CLINICAL LABORATORY PERFORMING SERVICES PURSUANT TO A WRITTEN ORDER FROM A HEALTH CARE PRACTITIONER FROM THE REQUIREMENT TO OBTAIN INFORMED CONSENT FOR GENETIC ANALYSIS OR TESTING.

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

Chapter 156 Section 1 Laws 2015

SECTION 1. Section 24-21-1 NMSA 1978 (being Laws 1998, Chapter 77, Section 1) is amended to read:

"24-21-1. SHORT TITLE.--Chapter 24, Article 21 NMSA 1978 may be cited as the "Genetic Information Privacy Act"."

Chapter 156 Section 2 Laws 2015

SECTION 2. Section 24-21-2 NMSA 1978 (being Laws 1998, Chapter 77, Section 2, as amended) is amended to read:

"24-21-2. DEFINITIONS.--As used in the Genetic Information Privacy Act:

A. "DNA" means deoxyribonucleic acid, including mitochondrial DNA, complementary DNA and DNA derived from ribonucleic acid;

B. "gene products" means gene fragments, ribonucleic acids or proteins derived from DNA that would be a reflection of or indicate DNA sequence information;

C. "genetic analysis" means a test of an individual's DNA, gene products or chromosomes that indicates a propensity for or susceptibility to illness, disease, impairment or other disorders, whether physical or mental; that demonstrates genetic or chromosomal damage due to environmental factors; or that indicates carrier status for disease or disorder; excluded, however, are routine physical measurements, chemical, blood and urine analysis, tests for drugs, tests for the presence of HIV virus and any other tests or analyses commonly accepted in clinical practice at the time ordered;

D. "genetic information" means information about the genetic makeup of an individual or members of an individual's family, including information resulting from genetic testing, genetic analysis, DNA composition, participation in genetic research or use of genetic services;

E. "genetic propensity" means the presence in an individual or members of an individual's family of real or perceived variations in DNA or other genetic material from that of the normal genome that do not represent the outward physical or medical signs of a genetic disease at the time of consideration;

F. "genetic testing" means a test of an individual's DNA, ribonucleic acid, chromosomes or proteins, including carrier status, that are linked with physical or mental disorders, impairments or genetic characteristics or that indicate that an individual may be predisposed to an illness, disease, impairment or other disorder;

G. "insurer" means an insurance company, insurance service or insurance organization that is licensed to engage in the business of insurance in the state and that is subject to state law that regulates insurance within the meaning of Paragraph (2) of Subsection (b) of Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended. "Insurer" does not include an insurance company that is licensed under the Prepaid Dental Plan Law or a company that is solely engaged in the sale of dental insurance and is not licensed under the Prepaid Dental Plan Law, but under another provision of the New Mexico Insurance Code; and

H. "laboratory" means a facility accredited pursuant to the federal clinical laboratory improvement amendments for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings and includes procedures to determine, measure or otherwise describe the presence or absence of various substances or organisms in the body."

Chapter 156 Section 3 Laws 2015

SECTION 3. Section 24-21-3 NMSA 1978 (being Laws 1998, Chapter 77, Section 3) is amended to read:

"24-21-3. GENETIC ANALYSIS PROHIBITED WITHOUT INFORMED CONSENT--EXCEPTIONS.--

A. Except as provided in Subsection C of this section, no person shall obtain genetic information or samples for genetic analysis from an individual without first obtaining informed and written consent from the individual or the individual's authorized representative.

B. Except as provided in Subsection C of this section, genetic analysis of an individual or collection, retention, transmission or use of genetic information without the informed and written consent of the individual or the individual's authorized representative is prohibited.

C. An individual's DNA, genetic information or the results of genetic analysis may be obtained, retained, transmitted or used without the individual's written and informed consent pursuant to federal or state law or regulations only:

(1) to identify an individual in the course of a criminal investigation by a law enforcement agency;

(2) if the individual has been convicted of a felony, for purposes of maintaining a DNA database for law enforcement purposes;

(3) to identify a deceased individual;

(4) to establish parental identity;

(5) to screen newborns;

(6) if the DNA, genetic information or results of genetic analysis are not identified with the individual or the individual's family members;

(7) by a court for determination of damage awards pursuant to the Genetic Information Privacy Act;

(8) by medical repositories or registries;

(9) for the purpose of medical or scientific research and education, including retention of gene products, genetic information or genetic analysis if the identity of the individual or the individual's family members is not disclosed;

(10) for the purpose of emergency medical treatment consistent with applicable law; or

(11) by a laboratory conducting an analysis or test of a specified individual pursuant to a written order to the laboratory from a health care practitioner or the health care practitioner's agent, including by electronic transmission.

D. Actions of an insurer and third parties dealing with an insurer in the ordinary course of conducting and administering the business of life, disability income or long-term care insurance are exempt from the provisions of this section if the use of genetic analysis or genetic information for underwriting purposes is based on sound actuarial principles or related to actual or reasonably anticipated experience. However, before or at the time of collecting genetic information for use in conducting and

administering the business of life, disability income or long-term care insurance, the insurer shall notify in writing an applicant for insurance or the insured that the information may be used, transmitted or retained solely for the purpose of conducting and administering the business of life, disability income or long-term care insurance.

E. Nothing in Paragraph (5), (8), (9), (10) or (11) of Subsection C of this section authorizes a person to obtain, retain, transmit or use an individual's DNA, genetic information or the results of genetic analysis if the individual or the individual's authorized representative or guardian, or the parent or guardian of a minor child, gives notice to the person of an objection on the basis of religious tenets or practices."

Chapter 156 Section 4 Laws 2015

SECTION 4. Section 24-21-4 NMSA 1978 (being Laws 1998, Chapter 77, Section 4, as amended) is amended to read:

"24-21-4. GENETIC DISCRIMINATION PROHIBITED.--

A. Discrimination by an insurer against an individual or member of the individual's family on the basis of genetic analysis, genetic information or genetic propensity is prohibited.

B. The provisions of this section do not require a health insurer to provide particular benefits other than those provided under the terms of the plan or coverage. A health insurer shall not consider a genetic propensity, susceptibility or carrier status as a pre-existing condition for the purpose of limiting or excluding benefits, establishing rates or providing coverage.

C. The provisions of this section do not prohibit use of genetic analysis, genetic propensity or genetic information by an insurer in the ordinary conduct of business in connection with life, disability income or long-term care insurance if use of genetic analysis, genetic propensity or genetic information in underwriting is based on sound actuarial principles or related to actual or reasonably anticipated experience.

D. It is unlawful for a person to use genetic information in employment, recruiting, housing or lending decisions or in extending public accommodations and services."

Chapter 156 Section 5 Laws 2015

SECTION 5. Section 24-21-5 NMSA 1978 (being Laws 1998, Chapter 77, Section 5) is amended to read:

"24-21-5. RIGHTS OF RETENTION.--

A. Unless otherwise authorized by Subsection C of Section 24-21-3 NMSA 1978, no person shall retain an individual's genetic information, gene products or samples for genetic analysis without first obtaining informed and written consent from the individual or the individual's authorized representative. This subsection does not affect the status of original medical records of patients, and the rules of confidentiality and accessibility applicable to the records continue in force.

B. An individual's genetic information or samples for genetic analysis shall be destroyed promptly upon the specific request by that individual or that individual's authorized representative unless:

(1) retention is necessary for the purposes of a criminal or death investigation or a criminal or juvenile proceeding;

(2) retention is authorized by order of a court of competent jurisdiction;

(3) retention is authorized under a research protocol approved by an institution review board pursuant to federal law or a medical registry or repository authorized by state or federal law; or

(4) the genetic information or samples for genetic analysis have been obtained pursuant to Subsection C of Section 24-21-3 NMSA 1978.

C. Actions of an insurer and third parties dealing with an insurer in the ordinary course of conducting and administering the business of life, disability income or long-term care insurance are exempt from the provisions of this section. However, before or at the time of collecting genetic information for use in conducting and administering the business of life, disability income or long-term care insurance, the insurer shall notify in writing an applicant for insurance or the insured that the information may be used, transmitted or retained solely for the purpose of conducting and administering the business of life, disability income or long-term care insurance.

D. Nothing in Paragraph (3) or (4) of Subsection B of this section authorizes retention of an individual's genetic information or samples for genetic analysis if the individual or the individual's authorized representative or guardian, or the parent or guardian of a minor child, objects on the basis of religious tenets or practices."

Chapter 156 Section 6 Laws 2015

SECTION 6. Section 24-21-6 NMSA 1978 (being Laws 1998, Chapter 77, Section 6) is amended to read:

"24-21-6. PENALTIES.--

A. The attorney general or a district attorney may bring a civil action against a person for violating the provisions of the Genetic Information Privacy Act or to otherwise enforce those provisions.

B. An individual whose rights under the provisions of the Genetic Information Privacy Act have been violated may bring a civil action for damages or other relief.

C. The court may order a person who violates the provisions of the Genetic Information Privacy Act to comply with those provisions and may order other appropriate relief, including:

(1) directing an insurer who has violated Section 24-21-3 or 24-21-4 NMSA 1978 to provide a policy for hospital and medical expenses, including health insurance, group disability insurance or long-term care coverage, to the injured individual under the same terms and conditions as would have applied had the violation not occurred;

(2) actual damages;

(3) damages of up to five thousand dollars (\$5,000) in addition to any economic loss if the violation results from willful or grossly negligent conduct; and

(4) reasonable attorney fees and appropriate court costs.

D. Pursuant to Subsection C of Section 24-21-3 NMSA 1978, the court may use genetic information to determine the cause of damage or injury and penalty awards.

E. Each instance of wrongful collection, analysis, retention, disclosure or use of genetic information constitutes a separate and actionable violation of the Genetic Information Privacy Act."

House Bill 369

Approved April 10, 2015

LAWS 2015, CHAPTER 157

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING AN EXCEPTION TO THE FEE AND FIREARMS TRAINING COURSE REQUIREMENTS OF THE CONCEALED HANDGUN CARRY ACT FOR CURRENT MEMBERS OF THE NEW MEXICO

MOUNTED PATROL AND CERTAIN MILITARY SERVICE PERSONS; PROVIDING FOR BACKGROUND CHECKS FOR LAW ENFORCEMENT OFFICERS APPLYING FOR CONCEALED HANDGUN LICENSES.

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

Chapter 157 Section 1 Laws 2015

SECTION 1. Section 29-19-14 NMSA 1978 (being Laws 2005, Chapter 242, Section 7) is amended to read:

"29-19-14. CURRENT AND RETIRED LAW ENFORCEMENT OFFICERS AND NEW MEXICO MOUNTED PATROL MEMBERS.--

A. An application fee, a renewal fee and a firearms training course are not required for an applicant or licensee who is:

(1) a current or retired certified law enforcement officer pursuant to the Law Enforcement Training Act; or

(2) a current member of the New Mexico mounted patrol who has successfully completed a law enforcement academy basic law enforcement training program for New Mexico mounted patrol members pursuant to Section 29-6-4.1 NMSA 1978.

B. A law enforcement officer or New Mexico mounted patrol member shall submit to the department two full sets of fingerprints and a color photograph of the law enforcement officer or New Mexico mounted patrol member. The department shall conduct an appropriate check of available records and shall forward the fingerprints to the federal bureau of investigation for a national criminal background check.

C. A retired law enforcement officer is not required to submit an application fee or a renewal fee if:

(1) the officer was a certified law enforcement officer pursuant to the Law Enforcement Training Act for at least fifteen years prior to retirement; and

(2) the retirement is in good standing as shown by a letter from the agency from which the officer retired.

D. A retired law enforcement officer who has been retired ten years or less is not required to complete a firearms training course.

E. A retired law enforcement officer who has been retired for more than ten years shall be required to complete a firearms training course. The officer shall be allowed to attend any local law enforcement agency's firearms qualification course;

provided that the officer supplies the officer's own ammunition, handgun, targets and range equipment. A local law enforcement agency shall not be liable under the Tort Claims Act for providing a firearms training course to a retired law enforcement officer pursuant to this subsection.

F. A retired law enforcement officer's concealed handgun license shall have printed on the license "retired police officer" and shall be valid for a period of five years."

Chapter 157 Section 2 Laws 2015

SECTION 2. A new section of the Concealed Handgun Carry Act is enacted to read:

"MILITARY SERVICE PERSONS--REQUIREMENTS.--

A. For a concealed handgun license applicant or licensee who submits with a concealed handgun license application documentation satisfactory to the department that the applicant is a military service person as defined in Subsection E of this section, an application fee or renewal fee is not required. For a military service person discharged from military service within twenty years of the application for a license or renewal of a license, a firearms training course or refresher firearms training course is not required.

B. A military service person shall submit to the department two full sets of fingerprints and a color photograph of the military service person. The department shall conduct an appropriate check of available records and shall forward the fingerprints to the federal bureau of investigation for a national criminal background check.

C. A military service person's concealed handgun carry license shall have printed on the license "military service person" and shall be valid for a period of five years.

D. The department shall suspend or revoke a military service person's concealed handgun license if:

(1) the military service person provided the department with false information on the application form or renewal form;

(2) the military service person did not satisfy the criteria for issuance of a concealed handgun license at the time the license was issued; or

(3) subsequent to receiving a concealed handgun license, the military service person violated a provision of the Concealed Handgun Carry Act.

E. As used in this section, "military service person" means a person who was accepted into the United States armed forces and:

(1) is on active duty with the United States armed forces;

(2) is on reserve or guard duty with the United States armed forces;

or

(3) is a veteran or a retiree who received an honorable discharge as indicated on a United States department of defense form 214."

House Bill 431, aa

Approved April 10, 2015

LAWS 2015, CHAPTER 158

AN ACT

RELATING TO HIGHER EDUCATION; NAMING THE UNIVERSITY OF NEW MEXICO TELEHEALTH VIDEOCONFERENCING CENTER THE STEPHEN EASLEY TELEHEALTH VIDEOCONFERENCING CENTER.

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

Chapter 158 Section 1 Laws 2015

SECTION 1. A new section of Chapter 21, Article 7 NMSA 1978 is enacted to read:

"STEPHEN EASLEY CENTER FOR TELEHEALTH.--The center for telehealth at the university of New Mexico shall be named the "Stephen Easley telehealth videoconferencing center", after Representative Stephen Easley, who died in office on August 14, 2013."

House Bill 567

Approved April 10, 2015

LAWS 2015, HOUSE JOINT RESOLUTION 20

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, Section 13-6-3 NMSA 1978 provides that any sale, trade or lease for a period exceeding twenty-five years in duration of real property belonging to any state agency, which sale, trade or lease shall be for a consideration of one hundred thousand dollars (\$100,000) or more, shall be subject to the ratification and approval of the state legislature prior to the sale, trade, donation or lease becoming effective; 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 Lots 1A and 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, 263.35 feet, thence along a curve to the right, Delta = 19 59' 44", Radius 559.41 feet, Arc Length = 195.23 feet, Chord Bearing S 54 01' 44" W, Chord Length 194.24 feet, thence; N 19 49' 45" W, 763.56 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; and

WHEREAS, the property has a value in excess of one hundred thousand dollars (\$100,000);

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 for the proposed transfer be contingent upon agreement by the parties in the conveyance document; 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 does not start construction of the magistrate court facility within two years of the date of conveyance of the property, the property shall be reconveyed by the administrative office of the courts to the general services department at no cost to the department; 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.

HFL/House Joint Resolution 20

LAWS 2015, SENATE JOINT RESOLUTION 7

A JOINT RESOLUTION

RATIFYING AND APPROVING THE DISPOSAL BY NEGOTIATED SALE OF REAL PROPERTY IN SANTA FE COUNTY.

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 school district; and

WHEREAS, Section 13-6-3 NMSA 1978 effectively requires that any such disposition of real property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to the ratification and approval of the state legislature prior to such disposition becoming effective; and

WHEREAS, the general services department has title to approximately eleven acres of land that is located north of Siringo road in Santa Fe, Santa Fe county, New Mexico, and is more particularly described as Lots A, B and D, as shown on the plat of survey entitled Boundary Easement Survey Plat of Tracts A, B, C & D, recorded as Document No. 1605161 in Plat Book 719, Page 047, records of Santa Fe county, New Mexico (the "property"); and

WHEREAS, the New Mexico school for the arts, a residential statewide state-chartered high school created by the legislature pursuant to the New Mexico School for the Arts Act and included as a school district pursuant to Section 22-24-3 NMSA 1978, has need for all or a portion of the property to build a permanent campus for the school; and

WHEREAS, the New Mexico school for the arts has worked closely with the general services department to identify this property as the appropriate site for the school's permanent campus; and

WHEREAS, the New Mexico school for the arts presented a proposal to the capitol buildings planning commission at its meeting on October 22, 2014 for the transfer of the property to the school; the secretary of general services indicated, under the state's master plan, that no current use for the property was identified; and a number of members of the commission indicated their support for the transfer;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed transfer to the New Mexico school for the arts of all or a portion of the real property comprising approximately eleven acres that is located north of Siringo road in Santa Fe, Santa Fe county, New Mexico, and is more particularly described as Lots A, B and D, as shown on the plat of survey entitled Boundary Easement Survey Plat of Tracts A, B, C & D, recorded as Document No. 1605161 in Plat Book 719, Page 047, records of Santa Fe county, New Mexico (the "property") is hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978, subject to the conditions of this resolution; and

BE IT FURTHER RESOLVED that the property has been appraised by an appraiser that was mutually agreeable to the general services department and the New Mexico school for the arts and was approved by the property tax division of the taxation and revenue department, and the appraisal shall be reviewed and validated by the property tax division; and

BE IT FURTHER RESOLVED that the general services department shall transfer the property to the New Mexico school for the arts pursuant to the terms of a written purchase agreement made by and between the general services department and the New Mexico school for the arts that provides that:

A. under the terms of the negotiated sale, the price for the property shall be the current appraised value plus whatever closing and other necessary costs are incurred for the transfer;

B. the general services department shall grant to the New Mexico school for the arts an appurtenant right-of-way easement required for access and egress and other necessary purposes on, over, through or across state property that is adjacent to Tracts A and D and under the ownership, management or control of the general services department; and

C. if the New Mexico school for the arts terminates its charter or is dissolved, and there is no statutorily authorized successor school, the property shall revert to the state under the ownership, management or control of the general services department or its successor agency or the local school board in compliance with the provisions of Subsection N of Section 22-8B-4 NMSA 1978; and

BE IT FURTHER RESOLVED that the written purchase agreement for the transfer of the property provided for in this resolution shall be reviewed by the capitol buildings planning commission prior to the final execution of the agreement; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the president of the governing council of the New Mexico school for the arts and the secretary of general services.

Senate Joint Resolution 7

LAWS 2015, SENATE JOINT RESOLUTION 19

A JOINT RESOLUTION

APPROVING TRIBAL-STATE CLASS III GAMING COMPACTS BETWEEN THE STATE OF NEW MEXICO AND THE NAVAJO NATION, THE JICARILLA APACHE

NATION, THE MESCALERO APACHE TRIBE, THE PUEBLO OF ACOMA AND THE PUEBLO OF JEMEZ.

WHEREAS, the Compact Negotiation Act authorizes the governor to negotiate the terms of compacts between the state and Indian nations, tribes and pueblos located in New Mexico for the conduct of class III gaming pursuant to the federal Indian Gaming Regulatory Act; and

WHEREAS, in 2001, a negotiated compact for class III gaming was approved by the legislature and by the United States department of the interior and was subsequently entered into by the governor on behalf of the state and by the Navajo Nation, the Jicarilla Apache Nation, the Mescalero Apache Tribe and the Pueblo of Acoma; and

WHEREAS, that 2001 compact expires on June 30, 2015; and

WHEREAS, the Navajo Nation, the Jicarilla Apache Nation, the Mescalero Apache Tribe and the Pueblo of Acoma desire to continue their gaming operations in New Mexico and the Pueblo of Jemez desires to enter into a gaming compact with the state of New Mexico; and

WHEREAS, the Compact Negotiation Act provides for legislative involvement in the negotiation process through the deliberations of the legislative committee on compacts and by requiring the approval, through a joint resolution, of a compact or amendments to a compact by a majority vote of both houses of the legislature before the compact or amendments may be executed by the governor; and

WHEREAS, Governor Susana Martinez on February 17, 2015 submitted to the legislative committee on compacts a proposed compact negotiated between her office and the Navajo Nation, the Jicarilla Apache Nation, the Mescalero Apache Tribe, the Pueblo of Acoma and the Pueblo of Jemez; and

WHEREAS, the legislative committee on compacts reviewed and considered the proposal during the course of two meetings, and on February 28, 2015 voted to submit to the legislature a joint resolution approving the proposed compacts with a recommendation that the proposed compacts be approved; and

WHEREAS, the office of the governor; representatives of the Navajo Nation, the Jicarilla Apache Nation, the Mescalero Apache Tribe, the Pueblo of Acoma and the Pueblo of Jemez; and the legislative committee on compacts agreed at the committee's February 28, 2015 meeting to correct certain technical errors in the text and format of the proposed compact without formally reopening negotiations; and

WHEREAS, those corrections have been made and are included in the compact attached hereto; and

WHEREAS, the Compact Negotiation Act allows the legislature to approve more than one compact in a single resolution if the terms of the compacts are identical, except for the names of the tribes and the persons executing the compacts; and

WHEREAS, the Compact Negotiation Act requires the governor to execute additional compacts identical to one negotiated and approved by the legislature under the act without submitting the additional, identical compacts for legislative approval; and

WHEREAS, the legislative committee on compacts hereby submits to the legislature proposed class III gaming compacts negotiated between the governor and the Navajo Nation, the Jicarilla Apache Nation, the Mescalero Apache Tribe, the Pueblo of Acoma and the Pueblo of Jemez with its recommendation that the proposed compacts be approved;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed class III gaming compacts between the state and the Navajo Nation, the Jicarilla Apache Nation, the Mescalero Apache Tribe, the Pueblo of Acoma and the Pueblo of Jemez attached hereto with the technical corrections to the text and format as noted in this joint resolution, and negotiated, agreed to and submitted to the legislative committee on compacts on February 17, 2015, be approved.

Senate Joint Resolution 19

2015 OFFICIAL ROSTER OF THE STATE OF NEW MEXICO

**OFFICIAL ROSTER
OF THE
STATE OF NEW MEXICO**

UNITED STATES SENATORS

Martin Heinrich, Democrat, Albuquerque
Tom Udall, Democrat, Santa Fe

UNITED STATES REPRESENTATIVES

Michelle Lujan Grisham, Democrat, 1st Congressional District - Albuquerque
Steve Pearce, Republican, 2nd Congressional District - Hobbs
Ben R. Lujan, Democrat, 3rd Congressional District - Santa Fe

STATE OFFICIALS

Susana Martinez, Republican	Governor
John A. Sanchez, Republican	Lieutenant Governor
Dianna J. Duran, Republican	Secretary of State
Timothy M. Keller, Democrat	State Auditor
Tim Eichenberg, Democrat	State Treasurer
Hector H. Balderas, Democrat	Attorney General
Aubrey Dunn, Republican	Commissioner of Public Lands
Karen Louise Montoya, Democrat	Public Regulation Commissioner, District 1
Patrick H. Lyons, Republican	Public Regulation Commissioner, District 2
Valerie L. Espinoza, Democrat	Public Regulation Commissioner, District 3
Lynda M. Lopez, Democrat	Public Regulation Commissioner, District 4
Sandy R. Jones, Democrat	Public Regulation Commissioner, District 5

JUSTICES OF THE SUPREME COURT

Barbara J. Vigil, Chief Justice
Richard C. Bosson
Edward L. Chavez
Charles W. Daniels
Petra Jimenez Maes

JUDGES OF THE COURT OF APPEALS

Michael E. Vigil, Chief Judge
Roderick T. Kennedy
James J. Wechsler
Michael D. Bustamante
Jonathan B. Sutin
Cynthia A. Fry
Linda M. Vanzi
Timothy L. Garcia
M. Monica Zamora
J. Miles Hanisee

**DISTRICT COURTS
DISTRICT JUDGES**

**FIRST JUDICIAL DISTRICT
Santa Fe, Los Alamos & Rio Arriba Counties**

Division	I	Francis J. Mathew	Santa Fe
Division	II	Sarah M. Singleton	Santa Fe
Division	III	Raymond Z. Ortiz	Santa Fe
Division	IV	Sylvia F. LaMar	Santa Fe
Division	V	Jennifer Attrep	Santa Fe
Division	VI	David K. Thomson	Santa Fe
Division	VII	T. Glenn Ellington	Santa Fe
Division	VIII	Mary L. Marlowe Sommer	Santa Fe
Division	IX	Matthew J. Wilson	Santa Fe

**SECOND JUDICIAL DISTRICT
Bernalillo County**

Division	I	William Parnall	Albuquerque
Division	II	Stan Whitaker	Albuquerque
Division	III	Brett Loveless	Albuquerque
Division	IV	Beatrice Brickhouse	Albuquerque
Division	V	Nancy J. Franchini	Albuquerque
Division	VI	Briana Zamora	Albuquerque
Division	VII	John J. Romero	Albuquerque
Division	VIII	Cristina T. Jaramillo	Albuquerque
Division	IX	Judith Nakamura	Albuquerque
Division	X	Christina P. Argyres	Albuquerque
Division	XI	Gerard Lavelle	Albuquerque
Division	XII	Clay Campbell	Albuquerque
Division	XIII	Valerie A. Huling	Albuquerque
Division	XIV	Marie Ward	Albuquerque
Division	XV	Alan Malott	Albuquerque
Division	XVI	Carl Butkus	Albuquerque
Division	XVII	Nan G. Nash	Albuquerque
Division	XVIII	Denise Barela-Shepherd	Albuquerque
Division	XIX	Benjamin Chavez	Albuquerque
Division	XX	Jacqueline D. Flores	Albuquerque
Division	XXI	Alisa Hadfield	Albuquerque
Division	XXII	Deborah Davis Walker	Albuquerque
Division	XXIII	Shannon Bacon	Albuquerque
Division	XXIV	Debra Ramirez	Albuquerque
Division	XXV	Elizabeth Whitefield	Albuquerque
Division	XXVI	Charles W. Brown	Albuquerque
Division	XXVII	Victor S. Lopez	Albuquerque

**THIRD JUDICIAL DISTRICT
Doña Ana County**

Division	I	Manuel I. Arrieta	Las Cruces
Division	II	Marci E. Beyer	Las Cruces
Division	III	Darren Murray Kugler	Las Cruces
Division	IV	Mary W. Rosner	Las Cruces
Division	V	Lisa C. Schultz	Las Cruces
Division	VI	James T. Martin	Las Cruces
Division	VII	Douglas R. Driggers	Las Cruces
Division	VIII	Fernando R. Macías	Las Cruces

FOURTH JUDICIAL DISTRICT
Guadalupe, Mora & San Miguel Counties

Division	I	Gerald Baca	Las Vegas
Division	II	Abigail P. Aragon	Las Vegas
Division	III	Matthew J. Sandoval	Las Vegas

FIFTH JUDICIAL DISTRICT
Lea, Eddy & Chaves Counties

Division	I	Raymond L. Romero	Carlsbad
Division	II	Freddie J. Romero	Roswell
Division	III	William G.W. Shoobridge	Lovington
Division	IV	Mark T. Sanchez	Lovington
Division	V	Jane Shuler Gray	Carlsbad
Division	VI	James M. Hudson	Roswell
Division	VII	Gary L. Clingman	Lovington
Division	VIII	Kea W. Riggs	Roswell
Division	IX	Lisa Riley	Carlsbad
Division	X	Steven L. Bell	Chaves
Division	XI	Lee A. Kirksey	Lea

SIXTH JUDICIAL DISTRICT
Grant, Hidalgo & Luna Counties

Division	I	Henry R. Quintero	Silver City
Division	II	Jennifer Ellen DeLaney	Deming
Division	III	J. C. Robinson	Silver City
Division	IV	Daniel Viramontes	Deming

SEVENTH JUDICIAL DISTRICT
Catron, Sierra, Socorro & Torrance Counties

Division	I	Mercedes C. Murphy	Socorro
Division	II	Matthew G. Reynolds	Socorro
Division	III	Kevin R. Sweazea	Estancia

EIGHTH JUDICIAL DISTRICT
Colfax, Union & Taos Counties

Division	I	John M. Paternoster	Raton
Division	II	Sarah C. Backus	Taos
Division	III	Jeff F. McElroy	Taos

NINTH JUDICIAL DISTRICT
Curry & Roosevelt Counties

Division	I	Stephen K. Quinn	Clovis
Division	II	Drew D. Tatum	Clovis
Division	III	Fred Van Soelen	Clovis, Portales
Division	IV	Donna J. Mowrer	Clovis, Portales
Division	V	David P. Reeb, Jr.	Portales

TENTH JUDICIAL DISTRICT
Quay, DeBaca, & Harding Counties

Division	I	Albert J. Mitchell, Jr.	Tucumcari
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**ELEVENTH JUDICIAL DISTRICT
McKinley & San Juan Counties**

Division	I	Bradford J. Dalley	Farmington
Division	II	Louis E. DePauli, Jr.	Gallup
Division	III	Sandra A. Price	Farmington
Division	IV	John Arthur Dean, Jr.	Farmington
Division	V	Lyndy D. Bennett	Gallup
Division	VI	Daylene A. Marsh	Aztec
Division	VII	Robert A. Aragon	Gallup
Division	VIII	Karen L. Townsend	Aztec

**TWELFTH JUDICIAL DISTRICT
Lincoln & Otero Counties**

Division	I	Jerry H. Ritter, Jr.	Alamogordo
Division	II	James Waylon Counts	Alamogordo
Division	III	Karen L. Parsons	Carrizozo
Division	IV	Angie K. Schneider	Alamogordo

**THIRTEENTH JUDICIAL DISTRICT
Cibola, Sandoval & Valencia Counties**

Division	I	James Lawrence Sanchez	Los Lunas
Division	II	George P. Eichwald	Bernalillo
Division	III	Allen R. Smith	Los Lunas
Division	IV	Camille Martinez Olguin	Grants
Division	V	Louis P. McDonald	Bernalillo
Division	VI	Cindy M. Mercer	Los Lunas
Division	VII	John F. Davis	Bernalillo
Division	VII	Cheryl H. Johnston	Bernalillo

DISTRICT ATTORNEYS

First Judicial District	Angela "Spence" R. Pacheco	Santa Fe, Rio Arriba & Los Alamos
Second Judicial District	Kari E. Brandenburg	Bernalillo
Third Judicial District	Mark D'Antonio	Doña Ana
Fourth Judicial District	Richard D. Flores	San Miguel, Guadalupe & Mora
Fifth Judicial District	Janetta B. Hicks	Chaves, Eddy & Lea
Sixth Judicial District	Francesca Martinez-Estevez	Grant, Luna & Hidalgo
Seventh Judicial District	Clint H. Wellborn	Catron, Sierra, Socorro & Torrance
Eighth Judicial District	Donald A. Gallegos	Taos, Colfax & Union
Ninth Judicial District	Andrea R. Reeb	Curry & Roosevelt
Tenth Judicial District	Timothy L. Rose	Quay, Harding & DeBaca
Eleventh Judicial District	Robert "Rick" P. Tedrow	Division 1: San Juan
	Karl R. Gillson	Division 2: McKinley
Twelfth Judicial District	Diana A. Martwick	Otero & Lincoln
Thirteenth Judicial District	Lemuel L. Martinez	Sandoval, Valencia & Cibola

**STATE SENATORS SERVING IN THE FIFTY-SECOND LEGISLATURE
STATE OF NEW MEXICO
FIRST SESSION
CONVENED JANUARY 20th, 2015**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	William E. Sharer	Farmington
2	San Juan	Steven P. Neville	Aztec
3	McKinley & San Juan	John Pinto	Tohatchi
4	Cibola, McKinley & San Juan	George K. Muñoz	Gallup
5	Los Alamos, Rio Arriba, Sandoval & Santa Fe	Richard C. Martinez	Española
6	Los Alamos, Rio Arriba, Santa Fe & Taos	Carlos R. Cisneros	Questa
7	Curry, Quay & Union	Pat Woods	Broadview
8	Colfax, Guadalupe, Harding, Mora, Quay, San Miguel & Taos	Pete Campos	Las Vegas
9	Bernalillo & Sandoval	John M. Sapien	Corrales
10	Bernalillo & Sandoval	John C. Ryan	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	Cisco McSorley	Albuquerque
17	Bernalillo	Mimi Stewart	Albuquerque
18	Bernalillo	Lisa A. Torracco	Albuquerque
19	Bernalillo, Sandoval, Santa Fe & Tarrant	Sue Wilson Beffort	Sandia Park
20	Bernalillo	William H. Payne	Albuquerque
21	Bernalillo	Mark Moores	Albuquerque
22	Bernalillo, McKinley, Rio Arriba, San Juan, & Sandoval	Benny Shendo	Jemez Pueblo
23	Bernalillo	Sander Rue	Albuquerque
24	Santa Fe	Nancy Rodriguez	Santa Fe
25	Santa Fe	Peter Wirth	Santa Fe
26	Bernalillo	Jacob R. Candelaria	Albuquerque
27	Chaves, Curry, DeBaca, Lea & Roosevelt	Stuart Ingle	Portales
28	Catron, Grant & Socorro	Howie C. Morales	Silver City
29	Bernalillo & Valencia	Michael S. Sanchez	Belen
30	Cibola, McKinley, Socorro & Valencia	Clemente Sanchez	Grants
31	Doña Ana	Joseph Cervantes	Las Cruces
32	Chaves, Eddy & Otero	Cliff R. Pirtle	Roswell
33	Chaves, Lincoln & Otero	William F. Burt	Alamogordo
34	Doña Ana, Eddy & Otero	Ron Griggs	Alamogordo
35	Doña Ana, Hidalgo, Luna & Sierra	John Arthur Smith	Deming
36	Doña Ana	Lee S. Cotter	Las Cruces
37	Doña Ana	William P. Soules	Las Cruces
38	Doña Ana	Mary Kay Papen	Las Cruces
39	Bernalillo, Lincoln, San Miguel, Santa Fe, Tarrant & Valencia	Phil A. Griego	San Jose
40	Sandoval	Craig W. Brandt	Rio Rancho
41	Eddy & Lea	Carroll H. Leavell	Jal
42	Chaves, Eddy & Lea	Gay G. Kernan	Hobbs

**STATE REPRESENTATIVES SERVING IN THE FIFTY-SECOND LEGISLATURE
STATE OF NEW MEXICO
FIRST SESSION
CONVENED JANUARY 20th, 2015**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	Rodney D. Montoya	Farmington
2	San Juan	James R.J. Strickler	Farmington
3	San Juan	Paul C. Bandy	Aztec
4	San Juan	Sharon Clahchischilliage	Kirtland
5	McKinley & San Juan	Doreen W. Johnson	Crownpoint
6	Cibola & McKinley	Eliseo Lee Alcon	Milan
7	Valencia	Kelly K. Fajardo	Belen
8	Valencia	Alonzo Baldonado	Los Lunas
9	McKinley & San Juan	Patricia A. Lundstrom	Gallup
10	Bernalillo	G. Andres Romero	Albuquerque
11	Bernalillo	Javier. I. Martinez	Albuquerque
12	Bernalillo	Patricio R. Ruiloba	Albuquerque
13	Bernalillo	Patricia A. Roybal Caballero	Albuquerque
14	Bernalillo	Miguel P. Garcia	Albuquerque
15	Bernalillo	Sarah Maestas Barnes	Albuquerque
16	Bernalillo	Antonio "Moe" Maestas	Albuquerque
17	Bernalillo	Deborah A. Armstrong	Albuquerque
18	Bernalillo	Gail Chasey	Albuquerque
19	Bernalillo	Sheryl Williams Stapleton	Albuquerque
20	Bernalillo	Jim Dines	Albuquerque
21	Bernalillo	Stephanie Maez	Albuquerque
22	Bernalillo, Sandoval & Santa Fe	James E. Smith	Sandia Park
23	Bernalillo & Sandoval	Paul A. Pacheco	Albuquerque
24	Bernalillo	Conrad D. James	Albuquerque
25	Bernalillo	Christine Trujillo	Albuquerque
26	Bernalillo	Georgene Louis	Albuquerque
27	Bernalillo	Larry A. Larrañaga	Albuquerque
28	Bernalillo	Jimmie C. Hall	Albuquerque
29	Bernalillo	David Edward Adkins	Albuquerque
30	Bernalillo	Nate Gentry	Albuquerque
31	Bernalillo	William "Bill" R. Rehm	Albuquerque
32	Grant, Hildago & Luna	Dona G. Irwin	Deming
33	Doña Ana	Bill McCamley	Mesilla Park
34	Doña Ana	Bealquin Bill Gomez	Las Cruces
35	Doña Ana	Jeff Steinborn	Las Cruces
36	Doña Ana	Andrew "Andy" Nuñez	Las Cruces
37	Doña Ana	Terry H. McMillan	Las Cruces
38	Grant, Hidalgo & Sierra	Dianne Miller Hamilton	Silver City
39	Doña Ana, Grant & Sierra	John L. Zimmerman	Las Cruces
40	Colfax, Mora, Rio Arriba & San Miguel	Nick L. Salazar	Ohkay Owingeh
41	Rio Arriba, Santa Fe & Taos	Debbie A. Rodella	Española
42	Taos	Roberto "Bobby" J. Gonzales	Taos
43	Los Alamos, Rio Arriba, Sandoval & Santa Fe	Stephanie Garcia Richard	Los Alamos
44	Sandoval	Jane E. Powdrell-Culbert	Corrales
45	Santa Fe	Jim R. Trujillo	Santa Fe
46	Santa Fe	Carl Trujillo	Santa Fe
47	Santa Fe	Brian F. Egolf, Jr.	Santa Fe
48	Santa Fe	Luciano "Lucky" Varela	Santa Fe

STATE REPRESENTATIVES (continued)

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
49	Catron, Socorro & Valencia	Don L. Tripp	Socorro
50	Bernalillo, Santa Fe, Torrance & Valencia	Matthew McQueen	Galisteo
51	Otero	Yvette Herrell	Alamogordo
52	Doña Ana	Doreen Y. Gallegos	Las Cruces
53	Doña Ana & Otero	Ricky L. Little	Chaparral
54	Chaves, Eddy & Otero	James G. Townsend	Artesia
55	Eddy	Cathrynn N. Brown	Carlsbad
56	Lincoln & Otero	Zachary J. Cook	Ruidoso
57	Sandoval	Jason C. Harper	Rio Rancho
58	Chaves	Candy Spence Ezzell	Roswell
59	Chaves & Lincoln	Nora Espinoza	Roswell
60	Sandoval	Tim D. Lewis	Rio Rancho
61	Lea	David M. Gallegos	Eunice
62	Lea	Larry R. Scott	Hobbs
63	Curry, DeBaca, Guadalupe, Roosevelt & San Miguel	George Dodge, Jr.	Santa Rosa
64	Curry	Randal S. Crowder	Clovis
65	Rio Arriba, San Juan & Sandoval	James Roger Madalena	Jemez Pueblo
66	Chaves, Lea & Roosevelt	Bob Wooley	Roswell
67	Colfax, Curry, Harding, Quay, Roosevelt, San Miguel & Union	Dennis J. Roch	Texico
68	Bernalillo	Monica Youngblood	Albuquerque
69	Bernalillo, Cibola, McKinley, San Juan Socorro & Valencia	W. Ken Martinez	Grants
70	San Miguel, Santa Fe & Torrance	Tomás E. Salazar	Las Vegas