



# LAWS 2018, CHAPTER 1

## AN ACT

RELATING TO HEALTH CARE; ENACTING THE NURSE LICENSURE COMPACT;  
MAKING CONFORMING CHANGES TO THE NURSING PRACTICE ACT;  
REPEALING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

### Chapter 1 Section 1 Laws 2018

SECTION 1. Section 61-3-24.1 NMSA 1978 (being Laws 2003, Chapter 307, Section 1) is repealed and a new Section 61-3-24.1 NMSA 1978 is enacted to read:

"61-3-24.1. NURSE LICENSURE COMPACT ENTERED INTO.--The Nurse Licensure Compact is entered into law and entered into with all other jurisdictions legally joining therein in a form substantially as follows:

#### "Nurse Licensure Compact

#### ARTICLE 1 - Findings and Declaration of Purpose

##### A. The party states find that:

(1) the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

(6) uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

B. The general purposes of this compact are to:

(1) facilitate the states' responsibility to protect the public's health and safety;

(2) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

(4) promote compliance with the laws governing the practice of nursing in each jurisdiction;

(5) invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(6) decrease redundancies in the consideration and issuance of nurse licenses; and

(7) provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

## ARTICLE 2 - Definitions

As used in this compact:

A. "adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action;

B. "alternative program" means a non-disciplinary monitoring program approved by a licensing board;

C. "commission" means the Interstate Commission of Nurse Licensure Compact Administrators established in this compact;

D. "coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards;

E. "current significant investigative information" means:

(1) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond;

F. "encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board;

G. "home state" means the party state which is the nurse's primary state of residence;

H. "licensing board" means a party state's regulatory body responsible for issuing nurse licenses;

I. "multistate license" means a license to practice as a registered nurse or a licensed practical or vocational nurse issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege;

J. "multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in a remote state;

K. "nurse" means a registered nurse or licensed practical or vocational nurse, as those terms are defined by each party state's practice laws;

L. "party state" means any state that has adopted this compact;

M. "prior compact" means the prior nurse licensure compact that is superseded by this compact;

N. "remote state" means a party state, other than the home state;

O. "single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state;

P. "state" means a state, territory or possession of the United States and the District of Columbia; and

Q. "state practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

### ARTICLE 3 - General Provisions and Jurisdiction

A. A multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse or as a licensed practical or vocational nurse, under a multistate licensure privilege, in each party state.

B. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

C. For an applicant to obtain or retain a multistate license in the home state, each party state shall require that the applicant:

(1) meets the home state's qualifications for licensure or renewal of licensure as well as all other applicable state laws;

(2) has graduated:

(a) or is eligible to graduate from a licensing board-approved registered nurse or licensed practical or vocational nurse prelicensure education program; or

(b) from a foreign registered nurse or licensed practical or vocational nurse prelicensure education program that: 1) has been approved by the authorized accrediting body in the applicable country; and 2) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

(3) has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the applicant's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

(4) has successfully passed a national council licensure examination for registered nurses or a national council licensure examination for

practical or vocational nurses given by the national council of state boards of nursing or an exam given by a recognized predecessor or successor organization, as applicable;

(5) is eligible for or holds an active, unencumbered license;

(6) has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(7) has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(8) has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(9) is not currently enrolled in an alternative program;

(10) is subject to self-disclosure requirements regarding current participation in an alternative program; and

(11) has a valid United States social security number.

D. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

E. A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

F. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing

in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

G. Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that a nurse who:

(1) changes primary state of residence after this compact's effective date must meet all applicable requirements of Subsection C of Article 3 of the Nurse Licensure Compact to obtain a multistate license from a new home state; or

(2) fails to satisfy the multistate licensure requirements in Subsection C of Article 3 of the Nurse Licensure Compact due to a disqualifying event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the commission.

#### ARTICLE 4 - Applications for Licensure in a Party State

A. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

B. A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

C. If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission.

(1) The nurse may apply for licensure in advance of a change in primary state of residence.

(2) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

D. If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

## ARTICLE 5 - Additional Authorities Invested in Party State Licensing Boards

A. In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(1) take adverse action against a nurse's multistate licensure privilege to practice within that party state; provided that:

(a) only the home state shall have the power to take adverse action against a nurse's license issued by the home state; and

(b) for purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action;

(2) issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state;

(3) complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions;

(4) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located;

(5) obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions;

(6) if otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse; and



(7) take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

B. If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

C. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

#### ARTICLE 6 - Coordinated Licensure Information System and Exchange of Information

A. All party states shall participate in a coordinated licensure information system of all licensed registered nurses and licensed practical or vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

B. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

C. All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

D. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

E. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

F. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

G. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

H. The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

- (1) identifying information;
- (2) licensure data;
- (3) information related to alternative program participation; and
- (4) other information that may facilitate the administration of this compact, as determined by commission rules.

I. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

## ARTICLE 7 - Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

A. The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

- (1) The commission is an instrumentality of the party states.
- (2) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
- (3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

### B. Membership, Voting and Meetings

(1) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(2) Each administrator shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article 8 of the Nurse Licensure Compact.

(5) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(a) noncompliance of a party state with its obligations under this compact;

(b) the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened or reasonably anticipated litigation;

(d) negotiation of contracts for the purchase or sale of goods, services or real estate;

(e) accusing any person of a crime or formally censuring any person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigatory records compiled for law enforcement purposes;

(i) disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(j) matters specifically exempted from disclosure by federal or state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

C. The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

(1) establishing the fiscal year of the commission;

(2) providing reasonable standards and procedures:

(a) for the establishment and meetings of other committees;  
and

(b) governing any general or specific delegation of any authority or function of the commission;

(3) providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

(4) establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;

(5) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission; and

(6) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

D. The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission.

E. The commission shall maintain its financial records in accordance with the bylaws.

F. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

G. The commission shall have the following powers:

(1) to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states;

(2) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(3) to purchase and maintain insurance and bonds;

(4) to borrow, accept or contract for services of personnel, including but not limited to employees of a party state or nonprofit organizations;

(5) to cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;

(6) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(7) to accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(8) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(9) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

(10) to establish a budget and make expenditures;

(11) to borrow money;

(12) to appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives, and other such interested persons;

(13) to provide and receive information from, and to cooperate with, law enforcement agencies;

(14) to adopt and use an official seal; and

(15) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

#### H. Financing of the Commission

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(2) The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

(3) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject

to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

#### I. Qualified Immunity, Defense and Indemnification

(1) The administrators, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

(2) The commission shall defend any administrator, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

#### ARTICLE 8 - Rulemaking

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

B. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

C. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) on the website of the commission; and

(2) on the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

D. The notice of proposed rulemaking shall include:

(1) the proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment, and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

E. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

F. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

G. The commission shall publish the place, time and date of the scheduled public hearing.

(1) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

(2) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

H. If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.



I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

J. The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) meet an imminent threat to public health, safety or welfare;

(2) prevent a loss of commission or party state funds; or

(3) meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

L. The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

## ARTICLE 9 - Oversight, Dispute Resolution and Enforcement

### A. Oversight

(1) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(2) The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

### B. Default, Technical Assistance and Termination

(1) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(a) provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(b) provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

(4) A state whose membership in this compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

### C. Dispute Resolution

(1) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and non-party states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(3) In the event the commission cannot resolve disputes among party states arising under this compact:

(a) the party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(b) the decision of a majority of the arbitrators shall be final and binding.

#### D. Enforcement

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

#### ARTICLE 10 - Effective Date, Withdrawal and Amendment

A. This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six states or December 31, 2018. All party states to this compact that were parties to the prior compact shall be deemed to have withdrawn from the prior compact within six months after the effective date of this compact.

B. Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

C. Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six months after enactment of the repealing statute.

D. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse

actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

E. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

F. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

G. Representatives of non-party states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

#### ARTICLE 11 - Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters."."

### **Chapter 1 Section 2 Laws 2018**

SECTION 2. Section 61-3-29.1 NMSA 1978 (being Laws 1987, Chapter 285, Section 1, as amended) is amended to read:

"61-3-29.1. DIVERSION PROGRAM CREATED--ADVISORY COMMITTEE--RENEWAL FEE--REQUIREMENTS--IMMUNITY FROM CIVIL ACTIONS.--

A. The board shall establish a diversion program to rehabilitate nurses whose competencies may be impaired because of the abuse of drugs or alcohol so that nurses can be treated and returned to or continue the practice of nursing in a manner that will benefit the public. The intent of the diversion program is to develop a voluntary alternative to traditional disciplinary actions and an alternative to lengthy and costly investigations and administrative proceedings against such nurses, at the same time providing adequate safeguards for the public.

B. The board shall appoint one or more evaluation committees, hereinafter called "regional advisory committees", each of which shall be composed of members with expertise in chemical dependency. At least one member shall be a registered nurse. No current member of the board shall be appointed to a regional advisory committee. The executive officer of the board or the executive officer's designee shall be the liaison between each regional advisory committee and the board.

C. Each regional advisory committee shall function under the direction of the board and in accordance with regulations of the board. The regulations shall include directions to a regional advisory committee to:

(1) establish criteria for continuance in the program;

(2) develop a written diversion program contract to be approved by the board that sets forth the requirements that shall be met by the nurse and the conditions under which the diversion program may be successfully completed or terminated;

(3) recommend to the board in favor of or against each nurse's discharge from the diversion program;

(4) evaluate each nurse's progress in recovery and compliance with the nurse's diversion program contract;

(5) report violations to the board;

(6) submit an annual report to the board; and

(7) coordinate educational programs and research related to chemically dependent nurses.

D. The board may increase the renewal fee for each nurse in the state not to exceed twenty dollars (\$20.00) for the purpose of implementing and maintaining the diversion program.

E. Files of nurses in the diversion program shall be maintained in the board office and shall be confidential except as required to be disclosed pursuant to the Nurse Licensure Compact, when used to make a report to the board concerning a nurse who is not cooperating and complying with the diversion program contract or, with written consent of a nurse, when used for research purposes as long as the nurse is not specifically identified. However, the files shall be subject to discovery or subpoena. The confidential provisions of this subsection are of no effect if the nurse admitted to the diversion program leaves the state prior to the completion of the program.

F. A person making a report to the board or to a regional advisory committee regarding a nurse suspected of practicing nursing while habitually

intemperate or addicted to the use of habit-forming drugs or making a report of a nurse's progress or lack of progress in rehabilitation shall be immune from civil action for defamation or other cause of action resulting from such reports if the reports are made in good faith and with some reasonable basis in fact.

G. A person admitted to the diversion program for chemically dependent nurses who fails to comply with the provisions of this section or with the rules and regulations adopted by the board pursuant to this section or with the written diversion program contract or with any amendments to the written diversion program contract may be subject to disciplinary action in accordance with Section 61-3-28 NMSA 1978."

### **Chapter 1 Section 3 Laws 2018**

SECTION 3. REPEAL.--Section 61-3-24.2 NMSA 1978 (being Laws 2003, Chapter 307, Section 2) is repealed.

### **Chapter 1 Section 4 Laws 2018**

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

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Senate Bill 1, w/ec

Approved January 18, 2018

## **LAWS 2018, CHAPTER 2**

AN ACT

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FIFTY-THIRD LEGISLATURE, SECOND SESSION, 2018, AND FOR OTHER LEGISLATIVE EXPENSES, INCLUDING THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, ~~THE SENATE RULES COMMITTEE,~~ THE HOUSE CHIEF CLERK'S OFFICE, THE SENATE CHIEF CLERK'S OFFICE AND OTHER EXPENSES OF THE LEGISLATURE; DECLARING AN EMERGENCY. *LINE-ITEM VETO*

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

### **Chapter 2 Section 1 Laws 2018**

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 second session of the fifty-third legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, four million seven hundred twelve thousand dollars (\$4,712,000) 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 \$ 202,860;

(2) per diem for members of the house of representatives \$ 338,100;

(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 \$ 6,418;

(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 \$ 9,950;

(5) salaries and employee benefits of senate employees \$ 1,550,200;

(6) salaries and employee benefits of house of representatives employees \$ 1,229,300;

(7) for expense of the senate not itemized above, three hundred ninety-five thousand seven hundred twenty-two dollars (\$395,722). No part of this item may be transferred to salaries or employee benefits;

(8) for expense of the house of representatives not itemized above, three hundred twenty-seven thousand four hundred fifty dollars (\$327,450). 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, six hundred fifty-two thousand dollars (\$652,000) 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 second session of the fifty-third legislature, the chair of the committees' committee of the senate, subject to the approval of the committee, and the speaker of the house of representatives are authorized and directed to provide for the printing of all bills, resolutions, joint resolutions, memorials and joint memorials introduced in the senate or house, the printing of the bill locator and the printing of all necessary stationery required for use in the respective houses. They are further directed to provide for the purchase of all supplies necessary for use in the respective houses within the appropriation provided. The orders for printing, stationery and supplies shall be approved by the chair of the committees' committee in the senate or by the speaker of the house.

## **Chapter 2 Section 2 Laws 2018**

### **SECTION 2. BILLS AND OTHER PRINTED MATERIALS.--**

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

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

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

(3) upon written request, one copy to each state department, commission, board, institution or agency, each elected state official, each incorporated municipality, each district attorney, each ex-governor, each member of the New Mexico congressional delegation and each 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 four hundred dollars (\$400), 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 one hundred thirty-five dollars (\$135) for the entire session.

## **Chapter 2 Section 3 Laws 2018**

SECTION 3. LEGISLATIVE COUNCIL SERVICE.--There is appropriated from the general fund to the legislative council service for fiscal year 2019, to be disbursed on vouchers signed by the director of the legislative council service or the director's designee, the following:

Personal Services & Employee Benefits \$4,450,000

Contractual Services 300,000

Other Costs 1,000,000

Total \$5,750,000.

## **Chapter 2 Section 4 Laws 2018**

SECTION 4. LEGISLATURE.--There is appropriated from the general fund for the expense of the legislative department, not provided for in Section 1 of this act, for fiscal year 2019 unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service or the director's designee, the following:

A. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, staff and other necessary expenses for other interim committees and for other necessary legislative expenses, nine hundred twenty-five thousand dollars (\$925,000); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;

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

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

D. for dues and fees of national organizations of which the legislature is a member, for fiscal years 2018 and 2019, three hundred sixty-one thousand seven hundred dollars (\$361,700);

E. for the legislative information system, for fiscal years 2018 and 2019, eight hundred seventy-three thousand four hundred dollars (\$873,400)[; and

~~F. for the interim duties of the senate rules committee, nineteen thousand one hundred dollars (\$19,100)].~~ *LINE-ITEM VETO*

## **Chapter 2 Section 5 Laws 2018**

SECTION 5. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee for fiscal year 2019, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits \$3,625,200

Contractual Services            260,800

Other Costs    295,200

Total    \$4,181,200.

## **Chapter 2 Section 6 Laws 2018**

SECTION 6. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for fiscal year 2019, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits \$1,112,600

Contractual Services            35,100

Other Costs    164,700

Total    \$1,312,400.

## **Chapter 2 Section 7 Laws 2018**

SECTION 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2019 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 \$907,200

Contractual Services            158,100

Other Costs 32,400

Total \$1,097,700.

## **Chapter 2 Section 8 Laws 2018**

SECTION 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2019 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 \$947,400

Contractual Services 149,400

Other Costs 44,200

Total \$1,141,000.

## **Chapter 2 Section 9 Laws 2018**

SECTION 9. EXTENSIBLE MARKUP LANGUAGE DATABASE--SELF-PUBLICATION.--There is appropriated from the legislative cash balances for the legislative department's share of the continued development required for the extensible markup language database, extensible markup language tagging and its use for legislative document systems and an integrated tagged database of the session laws and for the costs associated in collaborating with the New Mexico compilation commission on the ongoing development and expanding partnership role with the New Mexico compilation commission in the self-publication of the New Mexico Statutes Annotated 1978, four hundred thousand dollars (\$400,000) for expenditure during fiscal years 2018 and 2019.

## **Chapter 2 Section 10 Laws 2018**

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

## **Chapter 2 Section 11 Laws 2018**

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

## **Chapter 2 Section 12 Laws 2018**

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

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House Bill 1, w/ec, partial veto

Approved January 25, 2018

## **LAWS 2018, CHAPTER 3**

AN ACT

RELATING TO TAXATION; DISTRIBUTING A PORTION OF THE REVENUE FROM THE MOTOR VEHICLE EXCISE TAX TO THE STATE ROAD FUND.

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

### **Chapter 3 Section 1 Laws 2018**

SECTION 1. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed as follows:

- A. four and fifteen-hundredths percent to the state road fund; and
- B. the remainder to the general fund."

### **Chapter 3 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 226

Approved February 15, 2018

## **LAWS 2018, CHAPTER 4**

AN ACT

RELATING TO MILITARY AFFAIRS; CHANGING THE ELIGIBILITY REQUIREMENTS FOR NATIONAL GUARD MEMBERS TO RECEIVE ASSISTANCE FROM INCOME TAX REFUND CONTRIBUTIONS.

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

**Chapter 4 Section 1 Laws 2018**

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 Section 7-2-30.3 NMSA 1978 as contributions for assistance to members of the New Mexico national guard 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 4 Section 2 Laws 2018**

SECTION 2. Section 7-2-30.3 NMSA 1978 (being Laws 2005, Chapter 220, Section 2, as amended) 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 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 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 4 Section 3 Laws 2018**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 47

Approved February 28, 2018

## **LAWS 2018, CHAPTER 5**

AN ACT

RELATING TO CRIMINAL OFFENSES; CREATING THE CRIME OF MISREPRESENTATION OF MILITARY SERVICE; PROVIDING A PENALTY.

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

## **Chapter 5 Section 1 Laws 2018**

SECTION 1. MISREPRESENTATION OF MILITARY SERVICE--PENALTY.-- Misrepresentation of military service consists of a person misrepresenting that person's self as having served or currently serving in the United States armed forces for the intentional taking of anything of value based on the person's military service. Whoever commits misrepresentation of military service is guilty of a misdemeanor.

## **Chapter 5 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 67

Approved February 28, 2018

## **LAWS 2018, CHAPTER 6**

AN ACT

RELATING TO MILITARY AFFAIRS; INCREASING THE RANK REQUIRED TO BE APPOINTED ADJUTANT GENERAL; REMOVING THE POSITION OF VICE DEPUTY ADJUTANT GENERAL; CHANGING WHO MAY CONVENE A COURT-MARTIAL.

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

**Chapter 6 Section 1 Laws 2018**

SECTION 1. Section 20-1-5 NMSA 1978 (being Laws 1987, Chapter 318, Section 5) is amended to read:

"20-1-5. ADJUTANT GENERAL--APPOINTMENT AND DUTIES.--In case of a vacancy, the governor shall appoint as the adjutant general of New Mexico for a term of five years an officer who for three years immediately preceding the appointment as the adjutant general of New Mexico has been federally recognized as an officer in the national guard of New Mexico and who during service in the national guard of New Mexico has received federal recognition in the rank of colonel or higher. The adjutant general shall not be removed from office during the term for which appointed, except for cause to be determined by a court-martial or efficiency board legally convened for that purpose in the manner prescribed by the national guard regulations of the United States department of defense. The adjutant general shall have the military grade of major general and shall receive the same pay and allowances as is prescribed by federal law and regulations for members of the active military in the grade of major general, unless a different rate of pay and allowances is specified in the annual appropriations bill. The adjutant general shall:

A. prepare and publish, by order of the governor, such orders, rules and regulations, consistent with law, as are necessary to maintain the military forces in a state of efficiency in conformity with the needs of the state and the federal defense requirements;

B. supervise the receipt, preservation, repair, distribution, issue and collection of all arms and military equipment of the state;

C. supervise all personnel, organizations, facilities, equipment, supplies and funds of the military forces;

D. maintain records of all members of the military forces and keep on file in the adjutant general's offices copies of all orders, reports, regulations and communications received and issued by the adjutant general;

E. perform such other duties as may be required by the commander-in-chief; and

F. have a seal of office."

## **Chapter 6 Section 2 Laws 2018**

SECTION 2. Section 20-3-2 NMSA 1978 (being Laws 1987, Chapter 318, Section 17) is amended to read:

"20-3-2. DEPARTMENT STRUCTURE--AUTHORITY OF ADJUTANT GENERAL.--

A. The department of military affairs is composed of:

- (1) the office of the adjutant general;
- (2) three subordinate military divisions:
  - (a) the army national guard division;
  - (b) the air national guard division; and
  - (c) the state defense force division;
- (3) one subordinate civil division, the civil air patrol division; and
- (4) four subordinate support agencies:
  - (a) the selective service office;
  - (b) the state armory board;
  - (c) the state programs office; and

(d) the United States property and fiscal office and such other agencies, administrative staffs and clerical staffs necessary for departmental operation that the adjutant general may by regulation prescribe.

B. The adjutant general is the military chief of staff to the governor and is the head of the department of military affairs.

C. The adjutant general shall prescribe policies, rules and procedures for the orderly functioning of the department of military affairs, which may include subordinate organizational structures and lines of authority.

D. The adjutant general may employ such administrative, technical, clerical and other personnel as the adjutant general deems necessary and may fix the



compensation of exempt personnel subject to the concurrence of the department of finance and administration.

E. The adjutant general may make expenditures from appropriations or from other funds available to the adjutant general for all purposes within Chapter 20 NMSA 1978.

F. The adjutant general is authorized to accept through the United States property and fiscal officer such equipment, supplies, arms, facilities and personnel support funding as may be authorized and appropriated by federal law.

G. The adjutant general shall be furnished suitable buildings, facilities, supplies and equipment for conducting the business of the department of military affairs to include the proper storage, repair and issuance of military property.

H. The adjutant general may appoint as assistant adjutants general one officer from each of the three military divisions in the department of military affairs. The officers appointed shall hold the rank of brigadier general during such appointment. The qualifications of each person so appointed shall meet the specific standards required for such appointment within Chapter 20 NMSA 1978 and any applicable federal standards or requirements. Once appointed, the assistant adjutants general shall serve at the pleasure of the adjutant general; their performance will be reviewed annually, in January, by the adjutant general; and if relieved, an assistant adjutant general shall revert to the rank previously held or to such higher rank to which promoted and federally recognized while serving as assistant adjutant general. The adjutant general may designate one federally recognized assistant adjutant general as deputy adjutant general. The deputy adjutant general shall serve on full-time active status for the state. In the incapacity or absence from the state of the adjutant general, the deputy adjutant general shall act in the adjutant general's stead. In the incapacity or absence from the state of both the adjutant general and the deputy adjutant general, the governor may call any assistant adjutant general to active service for the state. The assistant adjutants general shall perform all duties that may be required of them by the adjutant general. The adjutant general may delegate in writing to any of the assistant adjutants general such authorities and responsibilities as the adjutant general deems appropriate, consistent with the constitutions, laws and regulations of the state and of the United States. Assistant adjutants general, when on active status for the state, shall receive the same pay and allowances as are prescribed by federal law and regulations for members of the active military in the grade of brigadier general, unless a different rate of pay and allowances are specified in a general appropriation act of the New Mexico legislature.

I. The adjutant general shall appoint individuals to serve as director of the one civil division and as head of each of the four support agencies, except as stated in Section 20-9-1 NMSA 1978. The qualifications of each person so appointed shall meet the specific standards required for such appointment within Chapter 20 NMSA 1978 and any applicable federal standards or requirements.

J. There shall be allowed to the adjutant general a contingent and entertainment fund of two thousand five hundred dollars (\$2,500) annually, plus such additional appropriations for carrying out the functions of the office as the legislature shall deem proper."

## **Chapter 6 Section 3 Laws 2018**

SECTION 3. Section 20-12-4 NMSA 1978 (being Laws 1987, Chapter 318, Section 89) is amended to read:

"20-12-4. CONVENING AUTHORITIES--NONJUDICIAL PUNISHMENT AUTHORITIES.--

A. A general, special or summary court-martial may be convened by the governor or by the adjutant general.

B. A special or summary court-martial may be convened by the assistant adjutant general of the army national guard, as to all members of the army national guard; by the commanding general of any brigade-level headquarters, as to members of the commanding general's command; by the assistant adjutant general of the air national guard, as to all members of the air national guard; by the assistant adjutant general of the state defense force, as to all members of the state defense force; and to the commanders of such equivalent level commands as may be organized in the future.

C. A summary court-martial may be convened by a battalion commander, group commander or equivalent, as to all members of the commander's command.

D. Nonjudicial punishment authority is conferred upon all general, special or summary court-martial convening authorities and upon company, battery and squadron commanders or equivalent, as to members of their command."

## **Chapter 6 Section 4 Laws 2018**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 16

Approved February 28, 2018

# **LAWS 2018, CHAPTER 7**

AN ACT

RELATING TO MOTOR VEHICLES; EXPANDING WHO IS ELIGIBLE TO RECEIVE A GOLD STAR FAMILY REGISTRATION PLATE; MAKING AN APPROPRIATION.

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

## **Chapter 7 Section 1 Laws 2018**

SECTION 1. Section 66-3-424.24 NMSA 1978 (being Laws 2009, Chapter 88, Section 1) is amended to read:

"66-3-424.24. REGISTRATION PLATES--GOLD STAR FAMILIES--  
SUBMISSION OF PROOF--PENALTY.--

A. The division shall issue distinctive registration plates to the surviving parent, spouse, child or sibling of a service member killed in an armed conflict with an enemy of the United States upon the submission by the person of proof satisfactory to the division that the person's parent, spouse, child, or sibling was a service member killed in an armed conflict with an enemy of the United States. The submission of a United States department of defense form 1300 or department of defense form 3 by a surviving parent, spouse, child or sibling of a service member killed in armed conflict with an enemy of the United States shall be proof satisfactory to the division that the service member was killed in armed conflict.

B. No fee, including the regular registration fee applicable to the passenger motor vehicle, if any, shall be collected for issuance of the first special registration plate issued to a surviving parent or spouse of a service member described in Subsection A of this section. No fee other than the regular registration fee applicable to the passenger motor vehicle, if any, shall be collected for issuance of three additional special registration plates issued to a surviving parent or spouse of a service member described in Subsection A of this section.

C. Except as otherwise provided in Subsection B of this section, 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 a special registration plate pursuant to this section. 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.

D. The special registration plate issued pursuant to this section shall be known as the "gold star families" special registration plate.

E. The division, with the advice and consultation of the gold star mothers, shall determine the color and design of the gold star families registration plate and provide for its issuance.

F. No person shall falsely claim to be a surviving parent, spouse, child or sibling of a service member killed in an armed conflict with an enemy of the United States so as to be eligible to be issued special registration plates pursuant to this section.

G. Any person who violates the provisions of Subsection F of this section is guilty of a misdemeanor.

H. As used in this section:

(1) "child" includes a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis;

(2) "parent" includes a biological, adoptive or foster parent, a stepparent or an individual who stands in loco parentis to a child; and

(3) "sibling" includes a stepsibling and a half-sibling."

## **Chapter 7 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 86

Approved February 28, 2018

## **LAWS 2018, CHAPTER 8**

AN ACT

RELATING TO EDUCATION; PROVIDING FOR EXPEDITED TEACHER LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES OF MILITARY SERVICE MEMBERS AND VETERANS.

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

## **Chapter 8 Section 1 Laws 2018**

SECTION 1. A new section of the School Personnel Act is enacted to read:

"EXPEDITED LICENSURE--MILITARY SERVICE MEMBERS AND SPOUSES--VETERANS.--

A. The department shall, as soon as practicable after a military service member, the spouse of a military service member or a veteran with a valid and current or an expired license from another jurisdiction files an application for a license:

(1) process the application; and

(2) issue a license to a qualified applicant who submits satisfactory evidence that demonstrates the required competencies and meets other requirements and qualifications for the license for which the teacher applies, including clearance of the required background check. The local superintendent may require a mentorship period for the licensee if the local superintendent deems it necessary. A teacher who holds an out-of-state license may apply for a lower level license if the teacher does not meet the requirements for the higher level.

B. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance and the renewal of the license for which the teacher applies. Upon the issuance of a license pursuant to this section, the department shall notify the license holder of the requirements for renewing the license in writing.

C. A license issued pursuant to this section to an applicant with an expired license shall not be valid for more than one year.

D. As used in this section:

(1) "military service member" means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard; and

(2) "veteran" means a person who has received an honorable discharge or separation from military service in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard."

## **Chapter 8 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 97

Approved February 28, 2018

## **LAWS 2018, CHAPTER 9**

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING NEW 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 ESTABLISH GUIDELINES RELATING TO STEP THERAPY FOR PRESCRIPTION DRUG COVERAGE.

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

**Chapter 9 Section 1 Laws 2018**

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

"PRESCRIPTION DRUG COVERAGE--STEP THERAPY PROTOCOLS--  
CLINICAL REVIEW CRITERIA--EXCEPTIONS.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that provides coverage for prescription drugs for which any step therapy protocols are required shall establish clinical review criteria for those step therapy protocols. The clinical review criteria shall be based on clinical practice guidelines that:

(1) recommend that the prescription drugs subject to step therapy protocols be taken in the specific sequence required by the step therapy protocol;

(2) are developed and endorsed by an interdisciplinary panel of experts that manages conflicts of interest among the members of the panel of experts by:

(a) requiring members to: 1) disclose any potential conflicts of interest with group health plan administrators, insurers, health maintenance organizations, health care plans, pharmaceutical manufacturers, pharmacy benefits managers and any other entities; and 2) recuse themselves if there is a conflict of interest; and

(b) using analytical and methodological experts to work to provide objectivity in data analysis and ranking of evidence through the preparation of evidence tables and facilitating consensus;

(3) are based on high-quality studies, research and medical practice;

(4) are created pursuant to an explicit and transparent process that:

(a) minimizes bias and conflicts of interest;

outcomes; (b) explains the relationship between treatment options and

recommendations; and (c) rates the quality of the evidence supporting

and (d) considers relevant patient subgroups and preferences;

(5) take into account the needs of atypical patient populations and diagnoses.

B. In the absence of clinical guidelines that meet the requirements of Subsection A of this section, peer-reviewed publications may be substituted.

C. When a group health plan restricts coverage of a prescription drug for the treatment of any medical condition through the use of a step therapy protocol, an enrollee and the practitioner prescribing the prescription drug shall have access to a clear, readily accessible and convenient process to request a step therapy exception determination. A group health plan may use its existing medical exceptions process in accordance with the provisions of Subsections D through I of this section to satisfy this requirement. The process shall be made easily accessible for enrollees and practitioners on the group health plan's publicly accessible website.

D. A group health plan shall expeditiously grant an exception to the group health plan's step therapy protocol, based on medical necessity and a clinically valid explanation from the patient's prescribing practitioner as to why a drug on the plan's formulary that is therapeutically equivalent to the prescribed drug should not be substituted for the prescribed drug, if:

(1) the prescription drug that is the subject of the exception request is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient;

(2) the prescription drug that is the subject of the exception request is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(3) while under the enrollee's current health coverage or previous health coverage, the enrollee has tried the prescription drug that is the subject of the exception request or another prescription drug in the same pharmacologic class or with the same mechanism of action as the prescription drug that is the subject of the exception request and that prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event; or

(4) the prescription drug required pursuant to the step therapy protocol is not in the best interest of the patient, based on clinical appropriateness, because the patient's use of the prescription drug is expected to:

(a) cause a significant barrier to the patient's adherence to or compliance with the patient's plan of care;

(b) worsen a comorbid condition of the patient; or

(c) decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities.

E. Upon the granting of an exception to a group health plan's step therapy protocol, the group health plan administrator shall authorize coverage for the prescription drug that is the subject of the exception request.

F. A group health plan shall respond with its decision on an enrollee's exception request within seventy-two hours of receipt. In cases where exigent circumstances exist, a group health plan shall respond within twenty-four hours of receipt of the exception request. In the event the group health plan does not respond to an exception request within the time frames required pursuant to this subsection, the exception request shall be granted.

G. A group health plan administrator's denial of a request for an exception for step therapy protocols shall be subject to review and appeal pursuant to the Patient Protection Act.

H. After an enrollee has made an exception request in accordance with the provisions of this section, a group health plan shall authorize continued coverage of a prescription drug that is the subject of the exception request pending the determination of the exception request.

I. The provisions of this section shall not be construed to prevent a:

(1) group health plan from requiring a patient to try a generic equivalent of a prescription drug before providing coverage for the equivalent brand-name prescription drug; or

(2) practitioner from prescribing a prescription drug that the practitioner has determined to be medically necessary.

J. The provisions of this section shall apply only to a group health plan delivered, issued for delivery or renewed on or after January 1, 2019.



K. As used in this section, "medical necessity" or "medically necessary" means health care services determined by a practitioner, in consultation with the group health plan administrator, to be appropriate or necessary according to:

(1) any applicable, generally accepted principles and practices of good medical care;

(2) practice guidelines developed by the federal government or national or professional medical societies, boards or associations; or

(3) any applicable clinical protocols or practice guidelines developed by the group health plan consistent with federal, national and professional practice guidelines. These standards shall be applied to decisions related to the diagnosis or direct care and treatment of a physical or behavioral health condition, illness, injury or disease."

## **Chapter 9 Section 2 Laws 2018**

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"MEDICAL ASSISTANCE--PRESCRIPTION DRUG COVERAGE--STEP THERAPY PROTOCOLS--CLINICAL REVIEW CRITERIA--EXCEPTIONS.--

A. By January 1, 2019, the secretary shall require any medical assistance plan for which any step therapy protocols are required to establish clinical review criteria for those step therapy protocols. The clinical review criteria shall be based on clinical practice guidelines that:

(1) recommend that the prescription drugs subject to step therapy protocols be taken in the specific sequence required by the step therapy protocol;

(2) are developed and endorsed by an interdisciplinary panel of experts that manages conflicts of interest among the members of the panel of experts by:

(a) requiring members to: 1) disclose any potential conflicts of interest with health care plans, medical assistance plans, health maintenance organizations, pharmaceutical manufacturers, pharmacy benefits managers and any other entities; and 2) recuse themselves if there is a conflict of interest; and

(b) using analytical and methodological experts to work to provide objectivity in data analysis and ranking of evidence through the preparation of evidence tables and facilitating consensus;

(3) are based on high-quality studies, research and medical practice;

- (4) are created pursuant to an explicit and transparent process that:
- (a) minimizes bias and conflicts of interest;
  - (b) explains the relationship between treatment options and outcomes;
  - (c) rates the quality of the evidence supporting recommendations; and
  - (d) considers relevant patient subgroups and preferences;
- and
- (5) take into account the needs of atypical patient populations and diagnoses.

B. In the absence of clinical guidelines that meet the requirements of Subsection A of this section, peer-reviewed publications may be substituted.

C. When a medical assistance plan restricts coverage of a prescription drug for the treatment of any medical condition through the use of a step therapy protocol, a recipient and the practitioner prescribing the prescription drug shall have access to a clear, readily accessible and convenient process to request a step therapy exception determination. A medical assistance plan may use its existing medical exceptions process in accordance with the provisions of Subsections D through I of this section to satisfy this requirement. The process shall be made easily accessible for recipients and practitioners on the medical assistance plan's publicly accessible website.

D. A medical assistance plan shall expeditiously grant an exception to the medical assistance plan's step therapy protocol, based on medical necessity and a clinically valid explanation from the patient's prescribing practitioner as to why a drug on the plan's formulary that is therapeutically equivalent to the prescribed drug should not be substituted for the prescribed drug, if:

(1) the prescription drug that is the subject of the exception request is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient;

(2) the prescription drug that is the subject of the exception request is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(3) while under the recipient's current medical assistance plan, or under the recipient's previous health coverage, the recipient has tried the prescription drug that is the subject of the exception request or another prescription drug in the

same pharmacologic class or with the same mechanism of action as the prescription drug that is the subject of the exception request and that prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event; or

(4) the prescription drug required pursuant to the step therapy protocol is not in the best interest of the patient, based on clinical appropriateness, because the patient's use of the prescription drug is expected to:

(a) cause a significant barrier to the patient's adherence to or compliance with the patient's plan of care;

(b) worsen a comorbid condition of the patient; or

(c) decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities.

E. Upon the granting of an exception to a medical assistance plan's step therapy protocol, a medical assistance plan shall authorize coverage for the prescription drug that is the subject of the exception request.

F. A medical assistance plan shall respond with its decision on a recipient's exception request within seventy-two hours of receipt. In cases where exigent circumstances exist, a medical assistance plan shall respond within twenty-four hours of receipt of the exception request. In the event the medical assistance plan does not respond to an exception request within the time frames required pursuant to this subsection, the exception request shall be granted.

G. A medical assistance plan's denial of a request for an exception for step therapy protocols shall be subject to review and appeal pursuant to department rules.

H. After a recipient has made an exception request in accordance with the provisions of this section, a medical assistance plan shall authorize continued coverage of a prescription drug that is the subject of the exception request pending the determination of the exception request.

I. The provisions of this section shall not be construed to prevent:

(1) a medical assistance plan from requiring a patient to try a generic equivalent of a prescription drug before providing coverage for the equivalent brand-name prescription drug; or

(2) a practitioner from prescribing a prescription drug that the practitioner has determined to be medically necessary.

J. As used in this section, "medical necessity" or "medically necessary" means health care services determined by a practitioner, in consultation with the medical assistance plan, to be appropriate or necessary, according to:

(1) any applicable, generally accepted principles and practices of good medical care;

(2) practice guidelines developed by the federal government or national or professional medical societies, boards or associations; or

(3) any applicable clinical protocols or practice guidelines developed by the medical assistance plan consistent with federal, national and professional practice guidelines. These standards shall be applied to decisions related to the diagnosis or direct care and treatment of a physical or behavioral health condition, illness, injury or disease."

## **Chapter 9 Section 3 Laws 2018**

SECTION 3. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

### **"PRESCRIPTION DRUG COVERAGE--STEP THERAPY PROTOCOLS-- CLINICAL REVIEW CRITERIA--EXCEPTIONS.--**

A. Each individual health insurance policy, health care plan and certificate of health insurance delivered or issued for delivery in this state that provides a prescription drug benefit for which any step therapy protocols are required shall establish clinical review criteria for those step therapy protocols. The clinical review criteria shall be based on clinical practice guidelines that:

(1) recommend that the prescription drugs subject to step therapy protocols be taken in the specific sequence required by the step therapy protocol;

(2) are developed and endorsed by an interdisciplinary panel of experts that manages conflicts of interest among the members of the panel of experts by:

(a) requiring members to: 1) disclose any potential conflicts of interest with insurers, health maintenance organizations, health care plans, pharmacy benefits managers and any other entities; and 2) recuse themselves if there is a conflict of interest; and

(b) using analytical and methodological experts to work to provide objectivity in data analysis and ranking of evidence through the preparation of evidence tables and facilitating consensus;

practice;

(3) are based on high-quality studies, research and medical

(4) are created pursuant to an explicit and transparent process that:

(a) minimizes bias and conflicts of interest;

(b) explains the relationship between treatment options and outcomes;

(c) rates the quality of the evidence supporting recommendations; and

(d) considers relevant patient subgroups and preferences;

and

(5) take into account the needs of atypical patient populations and diagnoses.

B. In the absence of clinical guidelines that meet the requirements of Subsection A of this section, peer-reviewed publications may be substituted.

C. When a health insurance policy, health care plan or certificate of insurance restricts coverage of a prescription drug for the treatment of any medical condition through the use of a step therapy protocol, an insured and the practitioner prescribing the prescription drug shall have access to a clear, readily accessible and convenient process to request a step therapy exception determination. An insurer may use its existing medical exceptions process in accordance with the provisions of Subsections D through I of this section to satisfy this requirement. The process shall be made easily accessible for insureds and practitioners on the insurer's publicly accessible website.

D. An insurer shall expeditiously grant an exception to the health insurance policy's, health care plan's or certificate of insurance's step therapy protocol, based on medical necessity and a clinically valid explanation from the patient's prescribing practitioner as to why a drug on the health insurance policy's, health care plan's or certificate of insurance's formulary that is therapeutically equivalent to the prescribed drug should not be substituted for the prescribed drug, if:

(1) the prescription drug that is the subject of the exception request is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient;

(2) the prescription drug that is the subject of the exception request is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(3) while under the insured's current health insurance policy, health care plan or certificate of insurance, or under the insured's previous health coverage, the insured has tried the prescription drug that is the subject of the exception request or another prescription drug in the same pharmacologic class or with the same mechanism of action as the prescription drug that is the subject of the exception request and that prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event; or

(4) the prescription drug required pursuant to the step therapy protocol is not in the best interest of the patient, based on clinical appropriateness, because the patient's use of the prescription drug is expected to:

(a) cause a significant barrier to the patient's adherence to or compliance with the patient's plan of care;

(b) worsen a comorbid condition of the patient; or

(c) decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities.

E. Upon the granting of an exception to a health insurance policy's, health care plan's or certificate of insurance's step therapy protocol, an insurer shall authorize coverage for the prescription drug that is the subject of the exception request.

F. An insurer shall respond with its decision on an insured's exception request within seventy-two hours of receipt. In cases where exigent circumstances exist, an insurer shall respond within twenty-four hours of receipt of the exception request. In the event the insurer does not respond to an exception request within the time frames required pursuant to this subsection, the exception request shall be granted.

G. An insurer's denial of a request for an exception for step therapy protocols shall be subject to review and appeal pursuant to the Patient Protection Act.

H. After an insured has made an exception request in accordance with the provisions of this section, an insurer shall authorize continued coverage of a prescription drug that is the subject of the exception request pending the determination of the exception request.

I. The provisions of this section shall not be construed to prevent:

(1) a health insurance policy, health care plan or certificate of insurance from requiring a patient to try a generic equivalent of a prescription drug before providing coverage for the equivalent brand-name prescription drug; or

(2) a practitioner from prescribing a prescription drug that the practitioner has determined to be medically necessary.

J. The provisions of this section shall apply only to a health insurance policy, health care plan or certificate of insurance delivered, issued for delivery or renewed on or after January 1, 2019.

K. The superintendent shall promulgate rules as may be necessary to appropriately implement the provisions of this section.

L. Nothing in this section shall be interpreted to interfere with the superintendent's authority to regulate prescription drug coverage benefits under other state and federal law.

M. As used in this section, "medical necessity" or "medically necessary" means health care services determined by a practitioner, in consultation with the insurer, to be appropriate or necessary, according to:

(1) any applicable, generally accepted principles and practices of good medical care;

(2) practice guidelines developed by the federal government or national or professional medical societies, boards or associations; or

(3) any applicable clinical protocols or practice guidelines developed by the insurer consistent with federal, national and professional practice guidelines. These standards shall be applied to decisions related to the diagnosis or direct care and treatment of a physical or behavioral health condition, illness, injury or disease."

## **Chapter 9 Section 4 Laws 2018**

SECTION 4. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

**"PRESCRIPTION DRUG COVERAGE--STEP THERAPY PROTOCOLS--  
CLINICAL REVIEW CRITERIA--EXCEPTIONS.--**

A. Each group or blanket health insurance policy, health care plan and certificate of health insurance delivered or issued for delivery in this state that provides a prescription drug benefit for which any step therapy protocols are required shall establish clinical review criteria for those step therapy protocols. The clinical review criteria shall be based on clinical practice guidelines that:

(1) recommend that the prescription drugs subject to step therapy protocols be taken in the specific sequence required by the step therapy protocol;

(2) are developed and endorsed by an interdisciplinary panel of experts that manages conflicts of interest among the members of the panel of experts by:

(a) requiring members to: 1) disclose any potential conflicts of interest with insurers, health maintenance organizations, health care plans, pharmacy benefits managers and any other entities; and 2) recuse themselves if there is a conflict of interest; and

(b) using analytical and methodological experts to provide objectivity in data analysis and ranking of evidence through the preparation of evidence tables and facilitating consensus;

(3) are based on high-quality studies, research and medical practice;

(4) are created pursuant to an explicit and transparent process that:

(a) minimizes bias and conflicts of interest;

(b) explains the relationship between treatment options and outcomes;

(c) rates the quality of the evidence supporting recommendations; and

(d) considers relevant patient subgroups and preferences; and

(5) take into account the needs of atypical patient populations and diagnoses.

B. In the absence of clinical guidelines that meet the requirements of Subsection A of this section, peer-reviewed publications may be substituted.

C. When a health insurance policy, health care plan or certificate of insurance restricts coverage of a prescription drug for the treatment of any medical condition through the use of a step therapy protocol, an insured and the practitioner prescribing the prescription drug shall have access to a clear, readily accessible and convenient process to request a step therapy exception determination. An insurer may use its existing medical exceptions process in accordance with the provisions of Subsections D through I of this section to satisfy this requirement. The process shall be made easily accessible for insureds and practitioners on the insurer's publicly accessible website.



D. An insurer shall expeditiously grant an exception to the health insurance policy's, health care plan's or certificate of insurance's step therapy protocol, based on medical necessity and a clinically valid explanation from the patient's prescribing practitioner as to why a drug on the health insurance policy's, health care plan's or certificate of insurance's formulary that is therapeutically equivalent to the prescribed drug should not be substituted for the prescribed drug, if:

(1) the prescription drug that is the subject of the exception request is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient;

(2) the prescription drug that is the subject of the exception request is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(3) while under the insured's current health insurance policy, health care plan or certificate of insurance, or under the insured's previous health coverage, the insured has tried the prescription drug that is the subject of the exception request or another prescription drug in the same pharmacologic class or with the same mechanism of action as the prescription drug that is the subject of the exception request and that prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event; or

(4) the prescription drug required pursuant to the step therapy protocol is not in the best interest of the patient, based on clinical appropriateness, because the patient's use of the prescription drug is expected to:

(a) cause a significant barrier to the patient's adherence to or compliance with the patient's plan of care;

(b) worsen a comorbid condition of the patient; or

(c) decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities.

E. Upon the granting of an exception to a health insurance policy's, health care plan's or certificate of insurance's step therapy protocol, an insurer shall authorize coverage for the prescription drug that is the subject of the exception request.

F. An insurer shall respond with its decision on an insured's exception request within seventy-two hours of receipt. In cases where exigent circumstances exist, an insurer shall respond within twenty-four hours of receipt of the exception request. In the event the insurer does not respond to an exception request within the time frames required pursuant to this subsection, the exception request shall be granted.

G. An insurer's denial of a request for an exception for step therapy protocols shall be subject to review and appeal pursuant to the Patient Protection Act.

H. After an insured has made an exception request in accordance with the provisions of this section, an insurer shall authorize continued coverage of a prescription drug that is the subject of the exception request pending the determination of the exception request.

I. The provisions of this section shall not be construed to prevent:

(1) a health insurance policy, health care plan or certificate of insurance from requiring a patient to try a generic equivalent of a prescription drug before providing coverage for the equivalent brand-name prescription drug; or

(2) a practitioner from prescribing a prescription drug that the practitioner has determined to be medically necessary.

J. The provisions of this section shall apply only to a health insurance policy, health care plan or certificate of insurance delivered, issued for delivery or renewed on or after January 1, 2019.

K. The superintendent shall promulgate rules as may be necessary to appropriately implement the provisions of this section.

L. Nothing in this section shall be interpreted to interfere with the superintendent's authority to regulate prescription drug coverage benefits under other state and federal law.

M. As used in this section, "medical necessity" or "medically necessary" means health care services determined by a practitioner, in consultation with the insurer, to be appropriate or necessary, according to:

(1) any applicable, generally accepted principles and practices of good medical care;

(2) practice guidelines developed by the federal government or national or professional medical societies, boards or associations; or

(3) any applicable clinical protocols or practice guidelines developed by the insurer consistent with federal, national and professional practice guidelines. These standards shall be applied to decisions related to the diagnosis or direct care and treatment of a physical or behavioral health condition, illness, injury or disease."

## **Chapter 9 Section 5 Laws 2018**

SECTION 5. A new section of the Health Maintenance Organization Law is enacted to read:

"PRESCRIPTION DRUG COVERAGE--STEP THERAPY PROTOCOLS--  
CLINICAL REVIEW CRITERIA--EXCEPTIONS.--

A. Each individual or group health maintenance organization contract delivered or issued for delivery in this state that provides a prescription drug benefit for which any step therapy protocols are required shall establish clinical review criteria for those step therapy protocols. The clinical review criteria shall be based on clinical practice guidelines that:

(1) recommend that the prescription drugs subject to step therapy protocols be taken in the specific sequence required by the step therapy protocol;

(2) are developed and endorsed by an interdisciplinary panel of experts that manages conflicts of interest among the members of the panel of experts by:

(a) requiring members to: 1) disclose any potential conflicts of interest with carriers, insurers, health care plans, pharmaceutical manufacturers, pharmacy benefits managers and any other entities; and 2) recuse themselves if there is a conflict of interest; and

(b) using analytical and methodological experts to work to provide objectivity in data analysis and ranking of evidence through the preparation of evidence tables and facilitating consensus;

(3) are based on high-quality studies, research and medical practice;

(4) are created pursuant to an explicit and transparent process that:

(a) minimizes bias and conflicts of interest;

(b) explains the relationship between treatment options and outcomes;

(c) rates the quality of the evidence supporting recommendations; and

(d) considers relevant patient subgroups and preferences; and

(5) take into account the needs of atypical patient populations and diagnoses.

B. In the absence of clinical guidelines that meet the requirements of Subsection A of this section, peer-reviewed publications may be substituted.

C. When a health maintenance organization contract restricts coverage of a prescription drug for the treatment of any medical condition through the use of a step therapy protocol, an enrollee and the practitioner prescribing the prescription drug shall have access to a clear, readily accessible and convenient process to request a step therapy exception determination. A carrier may use its existing medical exceptions process in accordance with the provisions of Subsections D through I of this section to satisfy this requirement. The process shall be made easily accessible for enrollees and practitioners on the carrier's publicly accessible website.

D. A carrier shall expeditiously grant an exception to the health maintenance organization contract's step therapy protocol, based on medical necessity and a clinically valid explanation from the patient's prescribing practitioner as to why a drug on the health maintenance organization contract's formulary that is therapeutically equivalent to the prescribed drug should not be substituted for the prescribed drug, if:

(1) the prescription drug that is the subject of the exception request is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient;

(2) the prescription drug that is the subject of the exception request is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(3) while under the enrollee's current health maintenance organization contract, or under the enrollee's previous health coverage, the enrollee has tried the prescription drug that is the subject of the exception request or another prescription drug in the same pharmacologic class or with the same mechanism of action as the prescription drug that is the subject of the exception request and that prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event; or

(4) the prescription drug required pursuant to the step therapy protocol is not in the best interest of the patient, based on clinical appropriateness, because the patient's use of the prescription drug is expected to:

(a) cause a significant barrier to the patient's adherence to or compliance with the patient's plan of care;

(b) worsen a comorbid condition of the patient; or

(c) decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities.

E. Upon the granting of an exception to a health maintenance organization contract's step therapy protocol, a carrier shall authorize coverage for the prescription drug that is the subject of the exception request.

F. A carrier shall respond with its decision on an enrollee's exception request within seventy-two hours of receipt. In cases where exigent circumstances exist, a carrier shall respond within twenty-four hours of receipt of the exception request. In the event the carrier does not respond to an exception request within the time frames required pursuant to this subsection, the exception request shall be granted.

G. A carrier's denial of a request for an exception for step therapy protocols shall be subject to review and appeal pursuant to the Patient Protection Act.

H. After an enrollee has made an exception request in accordance with the provisions of this section, a carrier shall authorize continued coverage of a prescription drug that is the subject of the exception request pending the determination of the exception request.

I. The provisions of this section shall not be construed to prevent:

(1) a health maintenance organization contract from requiring a patient to try a generic equivalent of a prescription drug before providing coverage for the equivalent brand-name prescription drug; or

(2) a practitioner from prescribing a prescription drug that the practitioner has determined to be medically necessary.

J. The provisions of this section shall apply only to a health maintenance organization contract delivered, issued for delivery or renewed on or after January 1, 2019.

K. The superintendent shall promulgate rules as may be necessary to appropriately implement the provisions of this section.

L. Nothing in this section shall be interpreted to interfere with the superintendent's authority to regulate prescription drug coverage benefits under other state and federal law.

M. As used in this section, "medical necessity" or "medically necessary" means health care services determined by a practitioner, in consultation with the carrier, to be appropriate or necessary, according to:

(1) any applicable, generally accepted principles and practices of good medical care;

(2) practice guidelines developed by the federal government or national or professional medical societies, boards or associations; or

(3) any applicable clinical protocols or practice guidelines developed by the carrier consistent with federal, national and professional practice guidelines. These standards shall be applied to decisions related to the diagnosis or direct care and treatment of a physical or behavioral health condition, illness, injury or disease."

## **Chapter 9 Section 6 Laws 2018**

SECTION 6. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"PRESCRIPTION DRUG COVERAGE--STEP THERAPY PROTOCOLS--  
CLINICAL REVIEW CRITERIA--EXCEPTIONS.--

A. Each individual or group nonprofit health care plan contract delivered or issued for delivery in this state that provides a prescription drug benefit for which any step therapy protocols are required shall establish clinical review criteria for those step therapy protocols. The clinical review criteria shall be based on clinical practice guidelines that:

(1) recommend that the prescription drugs subject to step therapy protocols be taken in the specific sequence required by the step therapy protocol;

(2) are developed and endorsed by an interdisciplinary panel of experts that manages conflicts of interest among the members of the panel of experts by:

(a) requiring members to: 1) disclose any potential conflicts of interest with health care plans, insurers, health maintenance organizations, pharmaceutical manufacturers, pharmacy benefits managers and any other entities; and 2) recuse themselves if there is a conflict of interest; and

(b) using analytical and methodological experts to work to provide objectivity in data analysis and ranking of evidence through the preparation of evidence tables and facilitating consensus;

(3) are based on high-quality studies, research and medical practice;

(4) are created pursuant to an explicit and transparent process that:

(a) minimizes bias and conflicts of interest;

outcomes; (b) explains the relationship between treatment options and

recommendations; and (c) rates the quality of the evidence supporting

and (d) considers relevant patient subgroups and preferences;

(5) take into account the needs of atypical patient populations and diagnoses.

B. In the absence of clinical guidelines that meet the requirements of Subsection A of this section, peer-reviewed publications may be substituted.

C. When a health care plan restricts coverage of a prescription drug for the treatment of any medical condition through the use of a step therapy protocol, a subscriber and the practitioner prescribing the prescription drug shall have access to a clear, readily accessible and convenient process to request a step therapy exception determination. A health care plan may use its existing medical exceptions process in accordance with the provisions of Subsections D through I of this section to satisfy this requirement. The process shall be made easily accessible for subscribers and practitioners on the health care plan's publicly accessible website.

D. A health care plan shall expeditiously grant an exception to the health care plan's step therapy protocol, based on medical necessity and a clinically valid explanation from the patient's prescribing practitioner as to why a drug on the health care plan's formulary that is therapeutically equivalent to the prescribed drug should not be substituted for the prescribed drug, if:

(1) the prescription drug that is the subject of the exception request is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient;

(2) the prescription drug that is the subject of the exception request is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(3) while under the subscriber's current health care plan, or under the subscriber's previous health coverage, the subscriber has tried the prescription drug that is the subject of the exception request or another prescription drug in the same pharmacologic class or with the same mechanism of action as the prescription drug that is the subject of the exception request and that prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event; or

(4) the prescription drug required pursuant to the step therapy protocol is not in the best interest of the patient, based on clinical appropriateness, because the patient's use of the prescription drug is expected to:

(a) cause a significant barrier to the patient's adherence to or compliance with the patient's plan of care;

(b) worsen a comorbid condition of the patient; or

(c) decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities.

E. Upon the granting of an exception to a health care plan's step therapy protocol, a health care plan shall authorize coverage for the prescription drug that is the subject of the exception request.

F. A health care plan shall respond with its decision on a subscriber's exception request within seventy-two hours of receipt. In cases where exigent circumstances exist, a health care plan shall respond within twenty-four hours of receipt of the exception request. In the event the insurer does not respond to an exception request within the time frames required pursuant to this subsection, the exception request shall be granted.

G. A health care plan's denial of a request for an exception for step therapy protocols shall be subject to review and appeal pursuant to the Patient Protection Act.

H. After a subscriber has made an exception request in accordance with the provisions of this section, a health care plan shall authorize continued coverage of a prescription drug that is the subject of the exception request pending the determination of the exception request.

I. The provisions of this section shall not be construed to prevent:

(1) a health care plan from requiring a patient to try a generic equivalent of a prescription drug before providing coverage for the equivalent brand-name prescription drug; or

(2) a practitioner from prescribing a prescription drug that the practitioner has determined to be medically necessary.

J. The provisions of this section shall apply only to a health care plan delivered, issued for delivery or renewed on or after January 1, 2019.

K. The superintendent shall promulgate rules as may be necessary to appropriately implement the provisions of this section.



L. Nothing in this section shall be interpreted to interfere with the superintendent's authority to regulate prescription drug coverage benefits under other state and federal law.

M. As used in this section, "medical necessity" or "medically necessary" means health care services determined by a practitioner, in consultation with the health care plan, to be appropriate or necessary, according to:

(1) any applicable, generally accepted principles and practices of good medical care;

(2) practice guidelines developed by the federal government or national or professional medical societies, boards or associations; or

(3) any applicable clinical protocols or practice guidelines developed by the health care plan consistent with federal, national and professional practice guidelines. These standards shall be applied to decisions related to the diagnosis or direct care and treatment of a physical or behavioral health condition, illness, injury or disease."

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SCORC/SPAC/Senate Bill 11, aa

Approved February 28, 2018

## **LAWS 2018, CHAPTER 10**

### **AN ACT**

RELATING TO PROTECTIVE ARRANGEMENTS; AMENDING ARTICLE 5 OF THE UNIFORM PROBATE CODE ADDRESSING SEPARATE ACCOUNTS AND RECORDS, LIABILITY OF A GUARDIAN OR CONSERVATOR, VOTING RIGHTS OF A PROTECTED PERSON, NOTICE, CONFIDENTIALITY, VISITATION, ALTERNATE PROTECTIVE ARRANGEMENTS, WAIVERS OF LIABILITY AND BONDING; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 10 Section 1 Laws 2018**

SECTION 1. A new section of Part 1 of Article 5 of the Uniform Probate Code, Section 45-5-107 NMSA 1978, is enacted to read:

"45-5-107. SEPARATE ACCOUNTS AND RECORDS.--

A. A guardian or conservator shall not commingle the guardian's or conservator's funds or investments with those held by the guardian or conservator as a fiduciary for a minor or an adult. Funds and any investments held by the guardian or conservator as a fiduciary for the minor or the adult shall be held in accounts that are separate from those of the guardian or conservator. If a guardian or conservator serves as fiduciary for one or more individuals subject to guardianship or conservatorship, the guardian or conservator shall hold the funds and any investments held as a fiduciary in a separate account for each individual subject to guardianship or conservatorship. Except as otherwise provided in the Uniform Probate Code, and to the extent that is reasonable and customary, any other property held by the guardian or conservator as a fiduciary for one or more individuals subject to guardianship or conservatorship shall be titled separately:

(1) from the guardian's or conservator's property; and

(2) for each individual subject to guardianship or conservatorship.

B. A court at any time may require a guardian to bring a proceeding for a conservatorship if necessary or advisable to:

(1) protect property of a minor or an adult, including any property held by the guardian as a fiduciary for the minor or the adult;

(2) conserve for the minor's future needs all funds of the minor not expended for the minor's current needs; or

(3) conserve for the adult's future needs all funds of the adult not expended for the adult's current needs.

C. The guardian or conservator shall maintain those books and records that are in the possession, custody or control of the guardian or conservator and that concern the funds, investments or other property held by the guardian or conservator as a fiduciary for an individual for seven years, or for such other period as may be provided by the court."

## **Chapter 10 Section 2 Laws 2018**

SECTION 2. A new section of Part 1 of Article 5 of the Uniform Probate Code, Section 45-5-108 NMSA 1978, is enacted to read:

"45-5-108. LIABILITY OF GUARDIAN OR CONSERVATOR FOR ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP.--A guardian or conservator is not personally liable to another person solely because of the guardianship or conservatorship for an act or omission of the individual subject to guardianship or conservatorship."

## **Chapter 10 Section 3 Laws 2018**

SECTION 3. A new section of Part 1 of Article 5 of the Uniform Probate Code, Section 45-5-109 NMSA 1978, is enacted to read:

"45-5-109. VOTING RIGHTS.--The voting rights of a protected person shall not be abridged or restricted except pursuant to Article 7, Section 1 of the constitution of New Mexico."

## **Chapter 10 Section 4 Laws 2018**

SECTION 4. Section 45-5-303 NMSA 1978 (being Laws 1989, Chapter 252, Section 5, as amended) is amended to read:

"45-5-303. PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN OF AN INCAPACITATED PERSON.--

A. An interested person may petition for appointment of a guardian for an alleged incapacitated person.

B. A petition under Subsection A of this section shall state the petitioner's name, principal residence, current street address, if different, relationship to the alleged incapacitated person, interest in the appointment, the name and address of any attorney representing the petitioner and, to the extent known, the following:

(1) the alleged incapacitated person's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed that the alleged incapacitated person will reside if the petition is granted;

(2) the name and address of the alleged incapacitated person's:

(a) spouse, or, if the alleged incapacitated person has none, an adult with whom the alleged incapacitated person is in a long-term relationship of indefinite duration in which the individual has demonstrated an actual commitment to the alleged incapacitated person similar to the commitment of a spouse and in which the individual and the alleged incapacitated person consider themselves to be responsible for each other's well-being;

(b) adult children or, if none, each parent and adult sibling of the alleged incapacitated person or, if none, at least one adult nearest in kinship to the alleged incapacitated person who can be found with reasonable diligence; and

(c) adult stepchildren whom the alleged incapacitated person actively parented during the stepchildren's minor years and with whom the alleged

incapacitated person had an ongoing relationship in the two-year period immediately preceding the filing of the petition;

(3) the name and current address of each of the following, if applicable:

(a) a person responsible for care of the alleged incapacitated person;

(b) any attorney currently representing the alleged incapacitated person;

(c) any representative payee appointed by the federal social security administration for the alleged incapacitated person;

(d) a guardian or conservator acting for the alleged incapacitated person in New Mexico or in another jurisdiction;

(e) a trustee or custodian of a trust or custodianship of which the alleged incapacitated person is a beneficiary;

(f) any fiduciary for the alleged incapacitated person appointed by the federal department of veterans affairs;

(g) an agent designated under a power of attorney for health care in which the alleged incapacitated person is identified as the principal;

(h) an agent designated under a power of attorney for finances in which the alleged incapacitated person is identified as the principal;

(i) a person nominated as guardian by the alleged incapacitated person;

(j) a person nominated as guardian by the alleged incapacitated person's parent or spouse in a will or other signed record;

(k) a proposed guardian and the reason the proposed guardian should be selected; and

(l) a person known to have routinely assisted the alleged incapacitated person with decision making during the six months immediately preceding the filing of the petition;

(4) the reason a guardianship is necessary, including a brief description of:

(a) the nature and extent of the alleged incapacitated person's alleged need;

(b) any least restrictive alternative for meeting the alleged incapacitated person's alleged need that has been considered or implemented;

(c) if no least restrictive alternative has been considered or implemented, the reason it has not been considered or implemented; and

(d) the reason a least restrictive alternative instead of guardianship is insufficient to meet the alleged incapacitated person's alleged need;

(5) whether the petitioner seeks a limited guardianship or full guardianship;

(6) if the petitioner seeks a full guardianship, the reason a limited guardianship or protective arrangement instead of guardianship is not appropriate;

(7) if a limited guardianship is requested, the powers to be granted to the guardian;

(8) the name and current address, if known, of any person with whom the petitioner seeks to limit the alleged incapacitated person's contact;

(9) if the alleged incapacitated person has property other than personal effects, a general statement of the alleged incapacitated person's property, with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts; and

(10) whether the alleged incapacitated person needs an interpreter, translator or other form of support to communicate effectively with the court or understand court proceedings.

C. Notice of a petition under this section for the appointment of a guardian and the hearing on the petition shall be given as provided in Section 45-5-309 NMSA 1978.

D. After the filing of a petition, the court shall set a date for hearing on the issues raised by the petition. Unless an alleged incapacitated person already has an attorney of the alleged incapacitated person's own choice, the court shall appoint an attorney to represent the alleged incapacitated person. The court-appointed attorney in the proceeding shall have the duties of a guardian ad litem, as set forth in Section 45-5-303.1 NMSA 1978.

E. The person alleged to be incapacitated shall be examined by a qualified health care professional appointed by the court who shall submit a report in writing to the court. The report shall:

(1) describe the nature and degree of the alleged incapacitated person's incapacity, if any, and the level of the alleged incapacitated person's intellectual, developmental and social functioning; and

(2) contain observations, with supporting data, regarding the alleged incapacitated person's ability to make health care decisions and manage the activities of daily living.

F. The court shall appoint a visitor who shall interview the person seeking appointment as guardian and the person alleged to be incapacitated. The visitor shall also visit the present place of abode of the person alleged to be incapacitated and the place where it is proposed the alleged incapacitated person will be detained or reside if the requested appointment is made. The visitor shall evaluate the needs of the person alleged to be incapacitated and shall submit a written report to the court. The report shall include a recommendation regarding the appropriateness of the appointment of the proposed guardian. The report to the court shall also include recommendations regarding:

(1) those aspects of personal care that the alleged incapacitated person can manage without supervision or assistance;

(2) those aspects of personal care that the alleged incapacitated person could manage with the supervision or assistance of support services and benefits; and

(3) those aspects of personal care that the alleged incapacitated person is unable to manage without the supervision of a guardian.

Unless otherwise ordered by the court, the appointment of the visitor terminates and the visitor is discharged from the visitor's duties upon entry of an order appointing a guardian and acceptance of the appointment by the guardian.

G. A person alleged to be incapacitated shall be present at the hearing on the issues raised by the petition and any response to the petition unless the court determines by evidence that it is not in the alleged incapacitated person's best interest to be present because of a threat to the health or safety of the alleged incapacitated person or others as determined by the court.

H. The court upon request or its own motion may conduct hearings at the location of the alleged incapacitated person who is unable to be present in court.

I. The rules of evidence shall apply and no hearsay evidence that is not otherwise admissible in a court shall be admitted into evidence except as otherwise provided in this article. There is a legal presumption of capacity, and the burden of proof shall be on the petitioner to prove the allegations set forth in the petition. Such proof shall be established by clear and convincing evidence.

J. The existence of a proceeding for or the existence of a guardianship for an adult is a matter of public record unless the court seals the record after:

(1) the alleged incapacitated person or individual subject to guardianship requests that the record be sealed; and

(2) either:

(a) the petition for guardianship is dismissed; or

(b) the guardianship is terminated.

K. An alleged incapacitated person or the protected person subject to a proceeding for a guardianship, whether or not a guardian is appointed, an attorney designated by the alleged incapacitated person or the protected person and a person entitled to notice are entitled to access court records of the proceeding and resulting guardianship. A person not otherwise entitled to access court records under this subsection for good cause may petition the court for access to court records of the guardianship. The court shall grant access if access is in the best interest of the alleged incapacitated person or the protected person or furthers the public interest and does not endanger the welfare or financial interests of the alleged incapacitated person or the protected person.

L. A report pursuant to Subsections E and F of this section or a written report filed pursuant to Section 45-5-303.1 NMSA 1978 is confidential and shall be sealed on filing, but is available to:

(1) the court;

(2) the alleged incapacitated person who is the subject of the report or evaluation, without limitation as to use;

(3) the petitioner, visitor, guardian ad litem and an attorney of record for purposes of the proceeding;

(4) unless the court orders otherwise, an agent appointed under a power of attorney for health care or power of attorney for finances in which the alleged incapacitated person is the principal; and

(5) any other person if it is in the public interest, as determined by the court, or for a purpose the court orders for good cause.

M. Notwithstanding the provisions of Subsection J of this section, a disclosure of information shall not include diagnostic information, treatment information or other medical or psychological information.

N. The issue of whether a guardian shall be appointed for the alleged incapacitated person shall be determined by the court at an open hearing unless, for good cause, the court determines otherwise.

O. Upon request of the petitioner or alleged incapacitated person, the court shall schedule a jury trial."

## **Chapter 10 Section 5 Laws 2018**

SECTION 5. Section 45-5-309 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-309, as amended) is amended to read:

"45-5-309. NOTICES IN GUARDIANSHIP PROCEEDINGS.--

A. On filing of a petition under Section 45-5-303 NMSA 1978 for appointment of a guardian for an alleged incapacitated person, the court shall set a date, time and place for hearing the petition.

B. A copy of a petition under Section 45-5-303 NMSA 1978 and notice of a hearing on the petition shall be served personally on the alleged incapacitated person. The notice shall inform the alleged incapacitated person of the alleged incapacitated person's rights at the hearing and the right to attend the hearing. The notice shall include a description of the nature, purpose and consequences of granting the petition. The court shall not grant the petition if notice substantially complying with this subsection is not served on the alleged incapacitated person.

C. In a proceeding on a petition under Section 45-5-303 NMSA 1978, the notice required under Subsection B of this section shall be given to the persons required to be listed in the petition under Section 45-5-303 NMSA 1978 and any other person interested in the alleged incapacitated person's welfare that the court determines. Failure to give notice under this subsection does not preclude the court from appointing a guardian.

D. After the appointment of a guardian, notice of a hearing on a petition for any order under Part 3 of Chapter 45, Article 5 NMSA 1978, together with a copy of the petition, shall be given to:

(1) the protected person subject to guardianship;



(2) the guardian; and

(3) any other person the court determines."

## **Chapter 10 Section 6 Laws 2018**

SECTION 6. Section 45-5-312 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-312, as amended) is amended to read:

"45-5-312. GENERAL POWERS AND DUTIES OF THE LIMITED GUARDIAN AND GUARDIAN.--

A. If the court enters judgment pursuant to Subsection C of Section 45-5-304 NMSA 1978, it shall appoint a limited guardian if it determines that the protected person is able to manage some but not all aspects of personal care. The court shall specify those powers that the limited guardian shall have and may further restrict each power so as to permit the protected person to care for the protected person's own self commensurate with the protected person's ability to do so. A person for whom a limited guardian has been appointed retains all legal and civil rights except those that have been specifically granted to the limited guardian by the court. The limited guardian shall exercise supervisory powers over the protected person in a manner that is the least restrictive form of intervention consistent with the order of the court.

B. A guardian of a protected person has the same powers, rights and duties respecting the protected person that a parent has respecting an unemancipated minor child, except that a guardian is not legally obligated to provide from the guardian's own funds for the protected person and is not liable to third persons for acts of the protected person solely by reason of the guardianship. In particular and without qualifying the foregoing, a guardian or the guardian's replacement has the following powers and duties, except as modified by order of the court:

(1) to the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the protected person, a guardian is entitled to custody of the protected person and may establish the protected person's place of abode within or without New Mexico;

(2) if entitled to custody of the protected person, a guardian shall make provision for the care, comfort and maintenance of the protected person and, whenever appropriate, arrange for training and education. The guardian shall take reasonable care of the protected person's clothing, furniture, vehicles and other personal effects and commence conservatorship proceedings if other property of the protected person is in need of protection;

(3) if no agent is entitled to make health care decisions for the protected person under the provisions of the Uniform Health-Care Decisions Act, then the guardian shall make health care decisions for the protected person in accordance

with the provisions of that act. In exercising health care powers, a guardian may consent or withhold consent that may be necessary to enable the protected person to receive or refuse medical or other professional care, counsel, treatment or service. That decision shall be made in accordance with the values of the protected person, if known, or the best interests of the protected person if the values are not known;

(4) if no conservator for the estate of the protected person has been appointed, if the court has determined that a conservatorship is not appropriate and if a guardian appointed by the court has been granted authority to make financial decisions on behalf of the protected person in the order of appointment and in the letters of guardianship pursuant to Subsection C of Section 45-5-308 NMSA 1978, the guardian has the following powers and duties, including the power:

(a) to institute proceedings to compel any person under a duty to support the protected person or to pay sums for the welfare of the protected person to perform that duty;

(b) to receive money and tangible property deliverable to the protected person and apply the money and property for support, care and education of the protected person, but the guardian shall not use funds from the protected person's estate for room and board that the guardian or the guardian's spouse, parent or child has furnished the protected person, unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the protected person, if notice is possible;

(c) to serve as advocate and decision-maker for the protected person in any disputes with persons or organizations, including financial institutions, regarding the protected person's finances;

(d) to obtain information regarding the protected person's assets and income from persons or organizations handling the protected person's finances;

(e) to file an initial inventory of all property belonging to the protected person within ninety days after appointment; and

(f) to exercise care to conserve any excess for the protected person's needs and include in the guardian's ninety-day and annual reports a description of decisions made regarding the protected person's finances and property; and

(5) the guardian shall exercise the guardian's supervisory powers over the protected person in a manner that is least restrictive of the protected person's personal freedom and consistent with the need for supervision.

C. A guardian of a protected person for whom a conservator also has been appointed shall control the care and custody of the protected person and is entitled to receive reasonable sums for services and for room and board furnished to the protected person. The guardian may request the conservator to expend the protected person's estate by payment to third persons or institutions for the protected person's care and maintenance.

D. Unless authorized by the court by specific order, a guardian for an adult shall not revoke or amend a power of attorney for health care or power of attorney for finances signed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless there is a court order to the contrary, a decision by the agent that the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible.

E. A guardian for an adult shall not initiate the commitment of the adult to a mental health treatment facility except in accordance with the state's procedure for involuntary civil commitment.

F. A guardian for a protected person shall not restrict the ability of the protected person to communicate, visit or interact with others, including receiving visitors and making or receiving telephone calls, personal mail or electronic communications, including through social media or participating in social activities, unless:

(1) authorized by the court by specific order;

(2) a less restrictive alternative is in effect that limits contact between the protected person and a person; or

(3) the guardian has good cause to believe restriction is necessary because interaction with a specified person poses a risk of significant physical, psychological or financial harm to the protected person and the restriction is:

(a) for a period of not more than seven business days if the person has a family or preexisting social relationship with the protected person; or

(b) for a period of not more than sixty days if the person does not have a family or preexisting social relationship with the protected person."

## **Chapter 10 Section 7 Laws 2018**

SECTION 7. Section 45-5-314 NMSA 1978 (being Laws 1989, Chapter 252, Section 14, as amended) is amended to read:

"45-5-314. ANNUAL REPORT--AUDITS.--

A. The guardian of an incapacitated person shall file an initial report with the appointing court within ninety days of the guardian's appointment. Thereafter, the guardian shall file an annual report within thirty days of the anniversary date of the guardian's appointment. A copy of the report shall also be submitted to the district judge who appointed the guardian or the judge's successor, to the incapacitated person and to the incapacitated person's conservator, if any. The court shall review this report. The report shall include information concerning the progress and condition of the incapacitated person, including the incapacitated person's health, medical and dental care, residence, education, employment and habitation; a report on the manner in which the guardian carried out the guardian's powers and fulfilled the guardian's duties; and the guardian's opinion regarding the continued need for guardianship. If the guardian has been provided power pursuant to Paragraph (4) of Subsection B of Section 45-5-312 NMSA 1978, the report shall contain information on financial decisions made by the guardian. The report may be substantially in the following form:

"STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT COURT

IN THE MATTER OF THE GUARDIANSHIP OF

\_\_\_\_\_

CAUSE NO. \_\_\_\_\_

an incapacitated adult

**GUARDIAN'S 90-DAY \_\_\_\_\_ ANNUAL \_\_\_\_\_ FINAL \_\_\_\_\_ (check one)**

REPORT ON THE CONDITION AND WELL-BEING OF AN ADULT PROTECTED PERSON

Date of Appointment: \_\_\_\_\_

*Pursuant to Section 45-5-314 NMSA 1978, the undersigned duly appointed, qualified and acting guardian of the above-mentioned protected person reports to the court as follows (attach additional sheets, if necessary):*

**PROTECTED** Name \_\_\_\_\_

**PERSON:** Residential Address \_\_\_\_\_

Facility Name

\_\_\_\_\_

City, State, Zip

Code \_\_\_\_\_

Telephone \_\_\_\_\_ Date of Birth \_\_\_\_\_

Name of person primarily responsible at protected person's place of residence:

\_\_\_\_\_  
\_\_\_\_\_.

**GUARDIAN:**

Name \_\_\_\_\_

Business Name (if any) \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Telephone \_\_\_\_\_ Alternate Telephone # \_\_\_\_\_

Relation to Protected Person \_\_\_\_\_

**3. FINAL REPORTS ONLY** (otherwise, go to #4)

I am filing a Final Report because of: \_\_\_ My resignation

\_\_\_ Death of the Protected Person \_\_\_ Court Order

\_\_\_ Other (please explain):

\_\_\_\_\_

A. If because of **resignation**, Name of successor, if appointed:

\_\_\_\_\_  
\_\_\_\_\_

Address

\_\_\_\_\_

City, State, Zip Code

\_\_\_\_\_

B. If because of **Protected Person's death**: (attach copy of death certificate, if available)

Date and place of death:

\_\_\_\_\_

Name of personal representative if appointed:

\_\_\_\_\_

Address

\_\_\_\_\_

City, State, Zip

Code \_\_\_\_\_

4. During the past year or 90 days (if initial report), I have visited the Protected Person \_\_\_\_\_ times. The date of my last personal visit was \_\_\_\_\_.

5. (A) Describe the residence of the Protected Person:

\_\_\_\_\_ Hospital/medical facility \_\_\_\_\_ Protected Person's home

\_\_\_\_\_ Guardian's home \_\_\_\_\_ Relative's home (explain below)

\_\_\_\_\_ Nursing home \_\_\_\_\_ Boarding/Foster/Group Home

\_\_\_\_\_ Other:

\_\_\_\_\_

(B) During the past year or 90 days (if first report), has the Protected Person changed his/her residence? \_\_\_\_\_

Do you anticipate a change of residence for the protected person in the next year? \_\_\_\_\_

6. The name and address of any hospital or other institution (if any) where the Protected Person is now admitted:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

7. The Protected Person is under a physician's regular care.

\_\_\_\_\_ Yes \_\_\_\_\_ No

Identify the health care providers.

**Physician:**

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**Dentist (if any):**

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**Mental Health Professional (i.e., psychiatrist, counselor):**

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**Other:**

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8. (A) During the past year or 90 days (if initial report), the Protected Person's physical health:

Remained the same \_\_\_\_\_

Primary diagnosis:

---

\_\_\_\_\_improved      \_\_\_\_\_deteriorated

(explain)

---

(B) During the past year or 90 days (if initial report), the Protected Person's mental health: Remained the same \_\_\_\_\_

Major diagnosis, if any:

---

Improved\_\_\_\_\_deteriorated

(explain)\_\_\_\_\_

If physical or mental health has deteriorated, please explain:

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9. Describe any significant hospitalizations or mental or medical events during the past year or 90 days (if initial report):

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10. List the Protected Person's activities and changes, if any, over the past year or 90 days (if initial report):

Recreational Activities:

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Educational Activities:

---

Social Activities:

---

List Active Friends and/or Relatives:

---

Occupational activities:

---

Other:

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11. Describe briefly any contracts entered into and major decisions made on behalf of the Protected Person during the past year or 90 days (if initial report):

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12. The Protected Person has made the following statements regarding his/her living arrangements and the guardianship over him/her:

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13. I believe the Protected Person has unmet needs.

\_\_\_\_\_ Yes (explain) \_\_\_\_\_ No

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---

If yes, indicate efforts made to meet these needs:

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14. The Protected Person continues to require the assistance of a guardian:



\_\_\_\_\_ Yes    \_\_\_\_\_ No

Explain why or why not:

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15. The authority given to me by the Court should:

\_\_\_\_\_ remain the same    \_\_\_\_\_ be decreased    \_\_\_\_\_ be increased

Why:

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16. Additional information concerning the Protected Person or myself (the guardian) that I wish to share with the Court:

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17. If the court has granted you the authority to make financial decisions on behalf of the Protected Person, then please describe the decisions you have made for the protected person:

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Signature of Guardian: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_."

B. Any guardian may rely on a qualified health care professional's current written report to provide descriptions of the physical and mental conditions required in items 7, 8, 9, 14 and 15 of the annual report as specified in Subsection A of this section.

C. The guardian may be fined five dollars (\$5.00) per day for an overdue annual report. The fine shall be used to fund the costs of visitors, counsel and functional

assessments utilized in conservatorship and guardianship proceedings pursuant to the Uniform Probate Code.

D. The court shall not waive the requirement of an annual report under any circumstance but may grant an extension of time not to exceed sixty days. The court may require the filing of more than one report annually.

E. A guardian of a protected person shall fully comply with the requirements of any audit of an account, inventory, report or property of a protected person."

## **Chapter 10 Section 8 Laws 2018**

SECTION 8. Section 45-5-404 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-404, as amended) is amended to read:

"45-5-404. ORIGINAL PETITION FOR APPOINTMENT OF CONSERVATOR.--

A. The following may petition for the appointment of a conservator:

(1) a person interested in the estate, financial affairs or welfare of an individual, including a person that would be adversely affected by lack of effective management of property or financial affairs of an individual; or

(2) the guardian for an individual.

B. A petition under Subsection A of this section shall state the petitioner's name, principal residence, current street address, if different, relationship to the alleged incapacitated person, interest in the appointment, the name and address of any attorney representing the petitioner and, to the extent known, the following:

(1) the alleged incapacitated person's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed that the alleged incapacitated person will reside if the petition is granted;

(2) the name and address of the alleged incapacitated person's:

(a) spouse, or, if the alleged incapacitated person has none, an adult with whom the alleged incapacitated person is in a long-term relationship of indefinite duration in which the individual has demonstrated an actual commitment to the alleged incapacitated person similar to the commitment of a spouse and in which the individual and the alleged incapacitated person consider themselves to be responsible for each other's well-being;

(b) adult children or, if none, each parent and adult sibling of the alleged incapacitated person or, if none, at least one adult nearest in kinship to the alleged incapacitated person who can be found with reasonable diligence; and

(c) adult stepchildren whom the alleged incapacitated person actively parented during the stepchildren's minor years and with whom the alleged incapacitated person had an ongoing relationship during the two years immediately preceding the filing of the petition;

(3) the name and current address of each of the following, if applicable:

(a) a person responsible for the care or custody of the alleged incapacitated person;

(b) any attorney currently representing the alleged incapacitated person;

(c) the representative payee appointed by the federal social security administration for the alleged incapacitated person;

(d) a guardian or conservator acting for the alleged incapacitated person in New Mexico or another jurisdiction;

(e) a trustee or custodian of a trust or custodianship of which the alleged incapacitated person is a beneficiary;

(f) the fiduciary appointed for the alleged incapacitated person by the federal department of veterans affairs;

(g) an agent designated under a power of attorney for health care in which the alleged incapacitated person is identified as the principal;

(h) an agent designated under a power of attorney for finances in which the alleged incapacitated person is identified as the principal;

(i) a person known to have routinely assisted the alleged incapacitated person with decision making in the six-month period immediately before the filing of the petition; and

(j) any proposed conservator, including a person nominated by the alleged incapacitated person;

(4) a general statement of the alleged incapacitated person's property with an estimate of its value, including any insurance or pension and the source and amount of other anticipated income or receipts;

(5) the reason conservatorship is necessary, including a brief description of:

(a) the nature and extent of the alleged incapacitated person's alleged need;

(b) if the petition alleges the alleged incapacitated person is missing, detained or unable to return to the United States, the relevant circumstances, including the time and nature of the disappearance or detention and any search or inquiry concerning the alleged incapacitated person's whereabouts;

(c) any less restrictive alternative for meeting the alleged incapacitated person's alleged need that has been considered or implemented;

(d) if no less restrictive alternatives have been considered or implemented, the reason it has not been considered or implemented; and

(e) the reason a less restrictive alternative is insufficient to meet the alleged incapacitated person's need;

(6) whether the petitioner seeks a limited conservatorship or a full conservatorship;

(7) if the petitioner seeks a full conservatorship, the reason a limited conservatorship instead of conservatorship is not appropriate;

(8) if the petition includes the name of a proposed conservator, the reason the proposed conservator should be appointed;

(9) if the petition is for a limited conservatorship, a description of the property to be placed under the conservator's control and any requested limitation on the authority of the conservator;

(10) whether the alleged incapacitated person needs an interpreter, translator or other form of support to communicate effectively with the court or understand court proceedings; and

(11) the name and address of an attorney representing the petitioner, if any."

## **Chapter 10 Section 9 Laws 2018**

SECTION 9. Section 45-5-405 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-405, as amended) is amended to read:

"45-5-405. NOTICE IN CONSERVATORSHIP PROCEEDINGS.--

A. On filing of a petition under Section 45-5-404 NMSA 1978 for appointment of a conservator, the court shall set a date, time and place for a hearing on the petition.

B. A copy of a petition under Section 45-5-404 NMSA 1978 and notice of a hearing on the petition shall be served personally on the alleged incapacitated person. If the alleged incapacitated person's whereabouts are unknown or personal service cannot be made, service on the alleged incapacitated person shall be made as provided in Section 45-1-401 NMSA 1978. The notice shall inform the alleged incapacitated person of the alleged incapacitated person's rights at the hearing and the right to attend the hearing. The notice also shall include a description of the nature, purpose and consequences of granting the petition. The court shall not grant a petition for appointment of a conservator if notice substantially complying with this subsection is not served on the alleged incapacitated person.

C. In a proceeding on a petition under Subsection B of this section, the notice required shall be given to the persons required to be listed in the petition under Section 45-5-404 NMSA 1978 and any other person interested in the alleged incapacitated person's welfare the court determines. Failure to give notice under this subsection does not preclude the court from appointing a conservator.

D. After the appointment of a conservator, notice of a hearing on a petition for an order under Part 4 of Chapter 45, Article 5 NMSA 1978, together with a copy of the petition, shall be given to:

(1) the protected person subject to conservatorship if the protected person is not missing, detained or unable to return to the United States;

(2) the conservator; and

(3) any other person the court determines."

## **Chapter 10 Section 10 Laws 2018**

SECTION 10. Section 45-5-405.1 NMSA 1978 (being Laws 1993, Chapter 301, Section 26) is amended to read:

"45-5-405.1. PROTECTIVE ARRANGEMENTS AND SINGLE TRANSACTIONS AUTHORIZED.--

A. If after notice in accordance with Section 45-5-405 NMSA 1978 to all interested persons, as defined in Section 45-1-201 NMSA 1978, and after hearing, it is established that a basis exists as described in Section 45-5-401 NMSA 1978 for affecting the estate and financial affairs of a person, the court, without appointing a conservator, may issue an order pursuant to Subsection B of this section for a protective arrangement instead of conservatorship for the person. Unless the person

already has an attorney of the person's own choice, the court shall appoint an attorney to represent the person at the hearing. The court-appointed attorney shall have the duties of a guardian ad litem, as set forth in Section 45-5-404.1

NMSA 1978.

B. The court, instead of appointing a conservator, may:

(1) authorize a person or direct a person to execute a transaction necessary to protect the financial interest or property of the protected person, including:

(a) an action to establish eligibility for benefits;

(b) payment, delivery, deposit or retention of funds or property;

(c) sale, mortgage, lease or other transfer of property, including water rights and oil, gas and other mineral interests;

(d) purchase of an annuity;

(e) entry into a contractual relationship, including a contract to provide for personal care, supportive services, education, training or employment;

(f) addition to or establishment of a trust;

(g) ratification or invalidation of a contract, trust or other transaction, including a transaction related to the property or business affairs of the protected person; or

(h) settlement of a claim; or

(2) restrict access to the protected person's property by a specified person whose access to the property places the protected person at serious risk of financial harm.

C. After the notice and hearing pursuant to Subsection A of this section, the court may issue an order to restrict access to the protected person or the protected person's property by a specified person that the court finds by clear and convincing evidence:

(1) through fraud, coercion, duress or the use of deception and control caused or attempted to cause an action that would have resulted in financial harm to the protected person or the protected person's property; and

(2) poses a serious risk of substantial financial harm to the protected person or the protected person's property.

D. Before issuing an order pursuant to Subsection B or C of this section, the court shall consider the factors described in Section 45-5-417 NMSA 1978 that a conservator shall consider when making a decision on behalf of an individual subject to conservatorship.

E. Before issuing an order pursuant to Subsection B or C of this section for a protected person who is a minor, the court also shall consider the best interest of the minor, the preference of the parents of the minor and the preference of the minor, if the minor is twelve years of age or older.

F. Before issuing an order pursuant to Subsection B or C of this section for a protected person who is an adult, the court shall also consider the adult's prior or current directions, preferences, opinions, values and actions, to the extent actually known or reasonably ascertainable."

## **Chapter 10 Section 11 Laws 2018**

SECTION 11. Section 45-5-407 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-407, as amended) is amended to read:

"45-5-407. PROCEDURE FOR COURT APPOINTMENT OF A CONSERVATOR.--

A. Upon receipt of a petition for appointment of a conservator or other protective order because of minority, the court shall set a date for hearing on the matters alleged in the petition. If at any time in the proceeding the court finds the minor is or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the choice of the minor if the minor is fourteen years of age or older. An attorney appointed by the court to represent a minor shall represent and protect the interests of the minor.

B. Upon receipt of a petition for appointment of a conservator for reasons other than minority, the court shall set a date for hearing. Unless the person to be protected is already represented by an attorney of the person's own choice, the court shall appoint an attorney to represent the person to be protected in the proceeding. The court-appointed attorney shall have the duties of a guardian ad litem as set forth in Section 45-5-404.1 NMSA 1978.

C. If the petition is for the appointment of a conservator for an incapacitated person, the person to be protected shall be examined by a qualified health care professional appointed by the court who shall submit a report in writing to the court. The report shall:

(1) describe the nature and degree of the person's incapacity, if any, and the level of the intellectual, developmental and social functioning of the person to be protected; and

(2) contain observations, with supporting data, regarding the ability of the person to be protected to manage the person's estate or financial affairs.

D. The court shall also appoint a visitor who shall interview the person seeking appointment as conservator and the person to be protected. The visitor shall also visit the present place of residence of the person to be protected. The visitor shall evaluate the needs of the person to be protected and shall submit a written report to the court. The report shall include a recommendation regarding the appropriateness of the appointment of the proposed conservator. The report shall also include recommendations regarding:

(1) those aspects of the person's financial affairs that the person to be protected can manage without supervision or assistance;

(2) those aspects of the person's financial affairs that the person to be protected could manage with the supervision or assistance of support services and benefits; and

(3) those aspects of the person's financial affairs that the person to be protected is unable to manage even with the supervision or assistance of support services and benefits.

Unless otherwise ordered by the court, the appointment of the visitor terminates and the visitor is discharged from duties upon entry of an order appointing a conservator and acceptance of the appointment by the conservator.

E. The person to be protected shall be present at the hearing on the issues raised by the petition and any response to the petition, unless the court determines it is not in the best interest of the person for whom a conservator is sought to be present because of a threat to the health or safety of the person for whom a conservator is sought or others as determined by the court. The court upon request or its own motion may conduct hearings at the location of the person to be protected if the person is unable to be present in court.

F. The person to be protected shall not be permitted by the court to consent to the appointment of a conservator.

G. The court, at the hearing on the petition for appointment of conservator, shall:

(1) inquire into the nature and extent of the functional limitations of the person to be protected; and



(2) ascertain the person's capacity to manage the person's financial affairs.

H. If it is determined that the person to be protected possesses the capacity to manage the person's estate or financial affairs, or both, the court shall dismiss the petition.

I. Alternatively, the court may appoint a full conservator, as requested in the petition, or a limited conservator and confer specific powers of conservatorship after finding in the record based on clear and convincing evidence that:

(1) the person to be protected is totally incapacitated or is incapacitated only in specific areas as alleged in the petition;

(2) the conservatorship is necessary as a means of effectively managing the estate or financial affairs, or both, of the person to be protected;

(3) there are not available alternative resources that enable the effective management of the estate and financial affairs of the person to be protected;

(4) the conservatorship is appropriate as the least restrictive form of intervention consistent with the preservation of the property of the person to be protected; and

(5) the proposed conservator is both qualified and suitable and is willing to serve.

J. After hearing, upon finding that a basis for the appointment of a conservator has been established, the court shall make an appointment of a conservator. The court shall appoint a limited conservator if it determines that the incapacitated person is able to manage some but not all aspects of the incapacitated person's estate and financial affairs. The court shall specify those powers that the limited conservator shall have and may further restrict each power so as to permit the incapacitated person to care for the incapacitated person's estate and financial affairs commensurate with the incapacitated person's ability to do so.

K. A person for whom a conservator has been appointed retains all legal and civil rights except those that have been specifically granted to the conservator by the court. The conservator shall exercise supervisory powers over the estate and financial affairs of the incapacitated person in a manner that is the least restrictive form of intervention consistent with the order of the court.

L. The rules of evidence shall apply and no hearsay evidence that is not otherwise admissible in a court shall be admitted into evidence except as otherwise provided in the Uniform Probate Code.

M. The existence of a proceeding for or the existence of conservatorship is a matter of public record unless the court seals the record after:

(1) the alleged incapacitated person, the protected person subject to conservatorship or the parent or a guardian of a minor subject to conservatorship requests that the record be sealed; and

(2) either:

(a) the petition for conservatorship is dismissed; or

(b) the conservatorship is terminated.

N. An alleged incapacitated person or protected person subject to a proceeding for a conservatorship, whether or not a conservator is appointed, an attorney designated by the alleged incapacitated person or protected person and a person entitled to notice may access court records of the proceeding and resulting conservatorship. A person not otherwise entitled to access to court records under this section for good cause may petition the court for access to court records of the conservatorship. The court shall grant access if access is in the best interest of the alleged incapacitated person or protected person subject to conservatorship or furthers the public interest and does not endanger the welfare or financial interests of the alleged incapacitated person or individual.

O. A report under Section 45-5-409 NMSA 1978 is confidential and shall be sealed on filing, but is available to:

(1) the court;

(2) the alleged incapacitated person or protected person who is the subject of the report, without limitation as to use;

(3) the petitioner, guardian ad litem, visitor and an attorney of record, for purposes of the proceeding;

(4) unless the court directs otherwise, an agent appointed under a power of attorney for finances in which the alleged incapacitated person is identified as the principal; and

(5) any other person if it is in the public interest, as determined by the court, or for a purpose the court orders for good cause.

P. Notwithstanding the provisions of Subsection M of this section, any disclosure of information shall not include any diagnostic information, treatment information or other medical or psychological information.

Q. The issue of whether a conservator shall be appointed for the alleged incapacitated person shall be determined by the court at an open hearing unless, for good cause, the court determines otherwise.

R. Upon request of the petitioner or person to be protected, the court shall schedule a jury trial.

S. Upon entry of an order appointing a conservator, a copy of the order shall be furnished to the person for whom the conservator was appointed and that person's counsel. The order shall contain the name and address of the conservator as well as notice to the person for whom the conservator was appointed of that person's right to appeal the appointment and of that person's right to seek alteration or termination of the conservatorship at any time."

### **Chapter 10 Section 12 Laws 2018**

SECTION 12. Section 45-5-409 NMSA 1978 (being Laws 1989, Chapter 252, Section 22, as amended) is amended to read:

"45-5-409. ANNUAL REPORT AND ACCOUNT--AUDITS.--

A. Every conservator shall file an annual report and account with the appointing court within thirty days of the anniversary date of the conservator's appointment, upon the conservator's resignation or removal or upon termination of the conservatorship. A copy of the annual report and account shall also be mailed to the district judge who appointed the conservator or the conservator's successor, to the incapacitated person and to the incapacitated person's guardian, if any. The report shall include information concerning the progress and condition of the person under conservatorship, a report on the manner in which the conservator carried out the conservator's powers and fulfilled the conservator's duties and the conservator's opinion regarding the continued need for conservatorship. The report may be substantially in the following form:

"IN THE DISTRICT COURT

\_\_\_\_\_ COUNTY, STATE OF NEW MEXICO

In the matter of the                    )        No. \_\_\_\_\_

Conservatorship of                    )

\_\_\_\_\_ )

(Enter Name of Person Under Conservatorship)

CONSERVATOR'S REPORT AND ACCOUNT

Pursuant to Section 45-5-409 NMSA 1978, the undersigned duly appointed, qualified and acting conservator of the above-mentioned protected person reports to the court as follows:

1. My name is:

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2. My address and telephone number are:

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3. The name, if applicable, and address of the place where the person under conservatorship now resides are:

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4. The name of the person primarily responsible for the care of the person under conservatorship at such person's place of residence is:

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5. The name and address of any hospital or other institution where the person under conservatorship is now admitted on a temporary basis are:

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6. A brief description of the physical condition of the person under conservatorship is:

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7. A brief description of the mental condition of the person under conservatorship is:

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8. A description of contracts entered into on behalf of the person under conservatorship during the past year:

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9. Describe all financial decisions made during the past year, including all receipts and disbursements, any sale, lease or mortgage of estate assets and any investment made on behalf of the person under conservatorship (NOTE: If the person under conservatorship is sharing expenses with others in a household and paying into joint household expenses, please identify the percentage of the expenses paid for by the person under conservatorship and how you determined that this percentage is appropriate.): \_\_\_\_\_

10. The reasons, if any, why the conservatorship should continue are:

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Signature of Conservator:

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Date: \_\_\_\_\_".

B. Any conservator may rely on a qualified health care professional's current written report to provide descriptions of the physical and mental conditions required in items 6, 7 and 10 of the annual report and account as specified in Subsection A of this section.

C. The court shall not waive the requirement of an annual report and account under any circumstance, but may grant an extension of time. The court may require the filing of more than one report and account annually.

D. The conservator may be fined five dollars (\$5.00) per day for an overdue annual report and account. The fine shall be used to fund the costs of visitors, counsel and functional assessments utilized in conservatorship and guardianship proceedings pursuant to the Uniform Probate Code.

E. In connection with an account, the court may require a conservator to submit to a physical check of the property in the conservator's control, to be made in any manner the court may order.

F. In any case in which property consists in whole or in part of benefits paid by the United States department of veterans affairs to the conservator or the conservator's predecessor for the benefit of the protected person, the department office that has jurisdiction over the area is entitled to a copy of any report and account filed under Chapter 45, Article 5 NMSA 1978.

G. A conservator shall fully comply with the requirements of any audit of an account, inventory, report or property of a protected person."

## **Chapter 10 Section 13 Laws 2018**

SECTION 13. A new section of Part 4 of Article 5 of the Uniform Probate Code, Section 45-5-409.1 NMSA 1978, is enacted to read:

"45-5-409.1. WAIVER OF LIABILITY.--

A. No person shall request, procure or receive a release or waiver of liability, however denominated, of a conservator, an agent, an affiliate or a designee of a conservator or any other third party acting on behalf of a conservator.

B. A release or waiver of liability that is requested, procured or received contrary to the provisions of Subsection A of this section is void."

## **Chapter 10 Section 14 Laws 2018**

SECTION 14. Section 45-5-411 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-411) is amended to read:

"45-5-411. BOND AND TERMS--REQUIREMENTS OF BONDS.--

A. Except as otherwise provided in Subsection C of this section, the court shall require a conservator to furnish a bond with a surety the court specifies, or require an alternative asset-protection arrangement, conditioned on faithful discharge of all duties of the conservator. The court may waive the requirement only if the court finds that a bond or other asset-protection arrangement is not necessary to protect the interests of the individual subject to conservatorship. Except as otherwise provided in Subsection C of this section, the court shall not waive the requirement if the conservator is in the business of serving as a conservator and is being paid for the conservator's service.

B. Unless the court directs otherwise, the bond required under this section shall be in the amount of the aggregate capital value of the conservatorship estate, plus one year's estimated income, less the value of property deposited under an arrangement requiring a court order for its removal and real property the conservator lacks power to sell or convey without specific court authorization. The court, in place of surety on a bond, may accept collateral for the performance of the bond, including a pledge of securities or a mortgage of real property.

C. A financial institution that possesses and is exercising general trust powers in New Mexico is not required to give a bond under this section. As used in this subsection, "financial institution" means a state- or federally chartered, federally insured depository bank or trust company.

D. The following rules apply to the bond required under this section:

(1) except as otherwise provided by the bond, the surety and the conservator are jointly and severally liable;

(2) by executing a bond provided by a conservator, the surety submits to the personal jurisdiction of the court that issued letters of conservatorship in a proceeding relating to the duties of the conservator in which the surety is named as a party. Notice of the proceeding shall be given to the surety;

(3) on petition of a successor conservator or person affected by a breach of the obligation of the bond, a proceeding may be brought against the surety for breach of the obligation of the bond; and

(4) a proceeding against the bond may be brought until liability under the bond is exhausted.

E. If a bond under this section is not renewed by the conservator, the surety or sureties immediately shall give notice to the court and the protected person subject to conservatorship."

## **Chapter 10 Section 15 Laws 2018**

SECTION 15. TEMPORARY PROVISION--REPORTING REQUIREMENTS.--On or before November 1, 2018, and again on or before November 1, 2019, the administrative office of the courts shall report to the legislative finance committee on the following topics:

A. the status of the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act as approved by the national conference of commissioners on uniform state laws, including publication of official commentary and introduction and enactment by state legislatures;

B. the feasibility of the implementation in New Mexico of the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act; and

C. an estimate of the financial cost to the judiciary to implement the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act.

## **Chapter 10 Section 16 Laws 2018**

SECTION 16. APPLICABILITY.--The provisions of this act apply to:

A. a proceeding for appointment of a guardian or conservator or for a protective arrangement instead of guardianship or conservatorship commenced on or after July 1, 2018; and

B. a guardianship, conservatorship or protective arrangement instead of guardianship or conservatorship in existence on June 30, 2018 unless the court finds application of a particular provision of this act would substantially interfere with the effective conduct of the proceeding or prejudice the rights of a party, in which case the particular provision of this act does not apply and the superseded law applies.

## **Chapter 10 Section 17 Laws 2018**

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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SJC/Senate Bill 19, aa

Approved February 28, 2018

## **LAWS 2018, CHAPTER 11**

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING SECTIONS OF THE HAZARDOUS WASTE ACT AND THE GROUND WATER PROTECTION ACT TO CONFORM THE DEFINITIONS OF "ABOVE GROUND STORAGE TANK", "UNDERGROUND STORAGE TANK" AND "TANK TESTER" TO COMPLY WITH FEDERAL LAW.

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

### **Chapter 11 Section 1 Laws 2018**

SECTION 1. Section 74-4-3 NMSA 1978 (being Laws 1977, Chapter 313, Section 3, as amended) is amended to read:

"74-4-3. DEFINITIONS.--As used in the Hazardous Waste Act:

A. "above ground storage tank" means a single tank or combination of tanks, including underground pipes connected thereto, that are used to contain petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute, and the volume of which is more than ninety percent above the surface of the ground. "Above ground storage tank" does not include any:

(1) farm, ranch or residential tank used for storing motor fuel for noncommercial purposes;

(2) pipeline facility, including gathering lines, that is regulated under Chapter 601 of Title 49 of the United States Code or that is an intrastate pipeline facility regulated under state laws as provided in Chapter 601 of Title 49 of the United States Code and that is determined by the United States secretary of transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(3) surface impoundment, pit, pond or lagoon;

(4) storm water or wastewater collection system;

(5) flow-through process tank;



(6) liquid trap, tank or associated gathering lines or other storage methods or devices related to oil, gas or mining exploration, production, transportation, refining, processing or storage, or to oil field service industry operations;

(7) tank used for storing heating oil for consumptive use on the premises where stored;

(8) pipes connected to any tank that is described in Paragraphs (1) through (7) of this subsection; or

(9) tanks or related pipelines and facilities owned or used by a refinery, natural gas processing plant or pipeline company in the regular course of its refining, processing or pipeline business;

B. "board" means the environmental improvement board;

C. "corrective action" means an action taken in accordance with rules of the board to investigate, minimize, eliminate or clean up a release to protect the public health, safety and welfare or the environment;

D. "director" or "secretary" means the secretary of environment;

E. "disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste or constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

F. "division" or "department" means the department of environment;

G. "federal agency" means any department, agency or other instrumentality of the federal government and any independent agency or establishment of that government, including any government corporation and the government publishing office;

H. "generator" means any person producing hazardous waste;

I. "hazardous agricultural waste" means hazardous waste generated as part of the licensed activity by any person licensed pursuant to the Pesticide Control Act or hazardous waste designated as hazardous agricultural waste by the board, but does not include animal excrement in connection with farm, ranch or feedlot operations;

J. "hazardous substance incident" means any emergency incident involving a chemical or chemicals, including transportation wrecks, accidental spills or leaks, fires or explosions, which incident creates the reasonable probability of injury to human health or property;

K. "hazardous waste" means any solid waste or combination of solid wastes that because of their quantity, concentration or physical, chemical or infectious characteristics may:

(1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. "Hazardous waste" does not include any of the following, until the board determines that they are subject to Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.:

(a) drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil or natural gas or geothermal energy;

(b) fly ash waste;

(c) bottom ash waste;

(d) slag waste;

(e) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(f) solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore; or

(g) cement kiln dust waste;

L. "manifest" means the form used for identifying the quantity, composition, origin, routing and destination of hazardous waste during transportation from point of generation to point of disposal, treatment or storage;

M. "person" means an individual, trust, firm, joint stock company, federal agency, corporation, including a government corporation, partnership, association, state, municipality, commission, political subdivision of a state or any interstate body;

N. "regulated substance" means:

(1) a substance defined in Section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, but not including a substance regulated as a hazardous waste under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended; and

(2) petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute;

O. "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, 86 Stat. 880, or source, special nuclear or byproduct material as defined by the federal Atomic Energy Act of 1954, as amended, 68 Stat. 923;

P. "storage" means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste;

Q. "storage tank" means an above ground storage tank or an underground storage tank;

R. "tank installer" means any individual who installs or repairs a storage tank;

S. "tank tester" means any individual who tests storage tanks;

T. "transporter" means a person engaged in the movement of hazardous waste, not including movement at the site of generation, disposal, treatment or storage;

U. "treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous waste so as to neutralize the waste or so as to render the waste nonhazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

V. "underground storage tank" means a single tank or a combination of tanks, including underground pipes connected thereto, that is used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected thereto, is ten percent or more beneath the surface of the ground. "Underground storage tank" does not include any:

(1) farm, ranch or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) septic tank;

(3) pipeline facility, including gathering lines, that is regulated under Chapter 601 of Title 49 of the United States Code or that is an intrastate pipeline facility regulated under state laws as provided in Chapter 601 of Title 49 of the United States Code and that is determined by the United States secretary of transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(4) surface impoundment, pit, pond or lagoon;

(5) storm water or wastewater collection system;

(6) flow-through process tank;

(7) liquid trap, tank or associated gathering lines directly related to oil or gas production and gathering operations;

(8) storage tank situated in an underground area, such as a basement, cellar, mineworking drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the undesignated floor;

(9) tank used for storing heating oil for consumptive use on the premises where stored;

(10) tank exempted by rule of the board after finding that the type of tank is adequately regulated under another federal or state law; or

(11) pipes connected to any tank that is described in Paragraphs (1) through (10) of this subsection; and

W. "used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities."

## **Chapter 11 Section 2 Laws 2018**

SECTION 2. Section 74-4-4.4 NMSA 1978 (being Laws 1987, Chapter 179, Section 6, as amended) is amended to read:

"74-4-4.4. STORAGE TANKS--REGISTRATION--INSTALLER CERTIFICATION--TESTER CERTIFICATION--FEES.--

A. By rule, the board shall require an owner of a storage tank to register the tank with the department and impose reasonable conditions for registration, including the submission of plans, specifications and other relevant information relating

to the tank. For purposes of this subsection only, the term "owner" means: in the case of a storage tank in use on November 8, 1984 or brought into use after that date, any person who owns the storage tank; and in the case of a storage tank in use before November 8, 1984 but no longer in use on that date, any person who owned the tank immediately before the discontinuation of its use. The owner of a tank taken out of operation on or before January 1, 1974 shall not be required to notify under this subsection. The owner of a tank taken out of operation after January 1, 1974 and removed from the ground prior to November 8, 1984 shall not be required to notify under this subsection. Evidence of current registration pursuant to this subsection shall be available for inspection at the site of the storage tank.

B. By rule, the board shall require any person who, beginning thirty days after the United States environmental protection agency administrator prescribes the form of notice pursuant to Section 9002(a)(5) of the federal Resource Conservation and Recovery Act of 1976 and for eighteen months thereafter, deposits a regulated substance into a storage tank to give notice of the registration requirements of Subsection A of this section to the owner and operator of the tank.

C. By rule, the board may require tank installers and tank testers to obtain certification from the department and develop procedures for certification that will ensure that storage tanks are installed, repaired and tested in a manner that will not encourage or facilitate leaking. If the board requires certification, it is unlawful for a person to install, repair or test a storage tank unless the person is a certified tank installer or certified tank tester. In accordance with the Uniform Licensing Act, the department may suspend or revoke the certification for a tank installer or tank tester upon grounds that the person:

(1) exercised fraud, misrepresentation or deception in obtaining certification;

(2) exhibited gross incompetence in the installation, repair or testing of a storage tank; or

(3) was derelict in the performance of a duty as a certified tank installer or certified tank tester.

D. By rule, the board shall provide a schedule of fees sufficient to defray the reasonable and necessary costs of:

(1) reviewing and acting upon applications for the registration of storage tanks;

(2) reviewing and acting upon applications for the certification of tank installers and certification of tank testers; and

(3) implementing and enforcing any provision of the Hazardous Waste Act applicable to storage tanks, tank installers and tank testers, including standards for the installation, operation and maintenance of storage tanks and for the certification of tank installers and tank testers."

## **Chapter 11 Section 3 Laws 2018**

SECTION 3. Section 74-6B-3 NMSA 1978 (being Laws 1990, Chapter 124, Section 3, as amended) is amended to read:

"74-6B-3. DEFINITIONS.--As used in the Ground Water Protection Act:

A. "above ground storage tank" means a single tank or a combination of tanks, including underground pipes connected thereto, that is used to contain petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute, and the volume of which is more than ninety percent above the surface of the ground. The term does not include any:

(1) farm, ranch or residential tank used for storing motor fuel for noncommercial purposes;

(2) pipeline facility, including gathering lines, that is regulated under Chapter 601 of Title 49 of the United States Code or that is an intrastate pipeline facility regulated under state laws as provided in Chapter 601 of Title 49 of the United States Code and that is determined by the United States secretary of transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(3) surface impoundment, pit, pond or lagoon;

(4) storm water or wastewater collection system;

(5) flow-through process tank;

(6) liquid trap, tank or associated gathering lines or other storage methods or devices related to oil, gas or mining exploration, production, transportation, refining, processing or storage, or oil field service industry operations;

(7) tank used for storing heating oil for consumptive use on the premises where stored;

(8) pipes connected to any tank that is described in Paragraphs (1) through (7) of this subsection; or

(9) tanks or related pipelines and facilities owned or used by a refinery, natural gas processing plant or pipeline company in the regular course of its refining, processing or pipeline business;

B. "board" means the environmental improvement board;

C. "corrective action" means an action taken in accordance with rules of the board to investigate, minimize, eliminate or clean up a release to protect the public health, safety and welfare or the environment;

D. "department" means the department of environment;

E. "operator" means any person in control of or having responsibility for the daily operation of a storage tank;

F. "owner":

(1) means:

(a) in the case of a storage tank in use or brought into use on or after November 8, 1984, a person who owns a storage tank used for storage, use or dispensing of regulated substances; and

(b) in the case of a storage tank in use before November 8, 1984 but no longer in use after that date, a person who owned the tank immediately before the discontinuation of its use; and

(2) excludes, for purposes of tank registration requirements only, a person who:

(a) had an underground storage tank taken out of operation on or before January 1, 1974;

(b) had an underground storage tank taken out of operation after January 1, 1974 and removed from the ground prior to November 8, 1984; or

(c) had an above ground storage tank taken out of operation on or before July 1, 2001;

G. "person" means an individual or any legal entity, including all governmental entities;

H. "regulated substance" means:

(1) a substance defined in Section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, but

not including a substance regulated as a hazardous waste under Subtitle C of the federal Resource Conservation and Recovery Act of 1976; and

(2) petroleum, including crude oil or a fraction thereof, that is liquid at standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute;

I. "release" means a spilling, leaking, emitting, discharging, escaping, leaching or disposing from a storage tank into ground water, surface water or subsurface soils in amounts exceeding twenty-five gallons;

J. "secretary" means the secretary of environment;

K. "site" means a place where there is or was at a previous time one or more storage tanks and may include areas contiguous to the actual location or previous location of the tanks;

L. "storage tank" means an above ground storage tank or an underground storage tank; and

M. "underground storage tank" means a single tank or a combination of tanks, including underground pipes connected thereto, that is used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected thereto, is ten percent or more beneath the surface of the ground. The term does not include any:

(1) farm, ranch or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) septic tank;

(3) pipeline facility, including gathering lines, that is regulated under Chapter 601 of Title 49 of the United States Code or that is an intrastate pipeline facility regulated under state laws as provided in Chapter 601 of Title 49 of the United States Code and that is determined by the United States secretary of transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(4) surface impoundment, pit, pond or lagoon;

(5) storm water or wastewater collection system;

(6) flow-through process tank;

(7) liquid trap, tank or associated gathering lines directly related to oil or gas production and gathering operations;



(8) storage tank situated in an underground area, such as a basement, cellar, mineworking drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the undesignated floor;

(9) tank used for storing heating oil for consumptive use on the premises where stored;

(10) tank exempted by rule of the board after finding that the type of tank is adequately regulated under another federal or state law; or

(11) pipes connected to any tank that is described in Paragraphs (1) through (10) of this subsection."

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Senate Bill 28, aa

Approved February 28, 2018

## **LAWS 2018, CHAPTER 12**

### AN ACT

RELATING TO HEALTH; AMENDING THE PAIN RELIEF ACT; REVISING THE NAME OF THE ADVISORY COUNCIL; ADDING REPRESENTATIVES OF KEY STATE AGENCIES, ORGANIZATIONS AND SPECIALTIES TO THE ADVISORY COUNCIL'S MEMBERSHIP AND CLARIFYING ITS DUTIES.

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

### **Chapter 12 Section 1 Laws 2018**

SECTION 1. Section 24-2D-5.2 NMSA 1978 (being Laws 2005, Chapter 140, Section 3, as amended) is amended to read:

"24-2D-5.2. OVERDOSE PREVENTION AND PAIN MANAGEMENT ADVISORY COUNCIL CREATED--DUTIES.--

A. The "overdose prevention and pain management advisory council" is created and shall be administratively attached to the department of health. Members of the council shall be appointed by the governor to consist of one representative each from the department of health, the human services department, the department of public safety, the New Mexico medical board, the board of nursing, the board of pharmacy, the board of osteopathic medicine, the board of acupuncture and oriental medicine, the New Mexico board of dental health care, the chiropractic board, the university of New Mexico health sciences center, a harm reduction organization, a third-party payer, a

statewide medical association, a statewide association of pharmacists, a statewide association of nurse practitioners, a statewide association of certified registered nurse anesthetists and a statewide association of osteopathic physicians; one person who is a pain management specialist; one person who is an addiction specialist; one person who is a consumer health care advocate; and one person who has no direct ties or pecuniary interest in the health care field.

B. The council shall meet at least quarterly to review the current status of overdose prevention and current pain management practices in New Mexico and national overdose prevention and pain management standards and educational efforts for both consumers and professionals. The council shall also make recommendations regarding overdose prevention and pain management practices. The council may create subcommittees as needed. Members who are not public employees shall receive per diem and mileage as provided in the Per Diem and Mileage Act. Public employee members shall receive mileage from their respective employers for attendance at council meetings."

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Senate Bill 29

Approved February 28, 2018

## **LAWS 2018, CHAPTER 13**

AN ACT

RELATING TO PUBLIC FACILITIES; PROHIBITING THE NAMING OF PUBLIC FACILITIES AFTER CERTAIN PUBLIC OFFICERS.

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

### **Chapter 13 Section 1 Laws 2018**

SECTION 1. A new section of the Property Control Act is enacted to read:

"PUBLIC FACILITIES--NAMING--PROHIBITION--EXCEPTIONS.--

A. As used in this section:

(1) "public facility" means a building or other real property under the control of the division; and

(2) "public officer" means a person elected to public office or any person appointed or employed by the state or a political subdivision of the state.

B. A public facility shall not be named for a public officer during the period in which that person is a public officer.

C. A public facility shall not be named for a public officer or other person who has been convicted of a felony. The division shall remove the name from a public facility named for such person immediately upon conviction, whether or not another name has been offered or approved for substitution and renaming. The secretary shall promulgate a rule for the removal of the name.

D. A public facility that has been named for a person who was not a public officer at the time of the naming may continue to bear that name if the person subsequently becomes a public officer.

E. Except as provided in Subsection C of this section, a public facility named for a public officer prior to the effective date of this section may continue to bear the name of that public officer.

F. The secretary shall submit a list of names for naming a public facility for consideration by the governor. The secretary shall promulgate a rule for the development of the list of names."

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Senate Bill 46

Approved February 28, 2018

## **LAWS 2018, CHAPTER 14**

AN ACT

RELATING TO CULTURAL AFFAIRS; AUTHORIZING THE SECRETARY OF CULTURAL AFFAIRS TO AUTHORIZE VENDORS TO SELL TICKETS, PASSES AND OTHER CULTURAL AFFAIRS DEPARTMENT PRODUCTS.

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

### **Chapter 14 Section 1 Laws 2018**

SECTION 1. Section 9-4A-6 NMSA 1978 (being Laws 2004, Chapter 25, Section 6, as amended) is amended to read:

"9-4A-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 therein 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 Cultural Affairs Department Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and rules;

(2) delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the secretary deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the secretary's duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to ensure implementation of and compliance with the provisions of law for whose administration or execution the secretary is responsible, and to enforce those orders and instructions by appropriate administrative action or actions in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the citizens of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objective of improving the operations and efficiency of the 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; and

(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.

C. The secretary may:

(1) apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services; and

(2) acquire by purchase, gift, endowment or legacy real or personal property and hold title to that property in the name of the department for the purpose of promoting, encouraging and supporting the performing arts in New Mexico. Property acquired pursuant to this paragraph shall be held under the control and authority of the department.

D. Where functions of departments overlap, or a function assigned to one department could better be performed by another department, a secretary may recommend appropriate legislation to the next session of the legislature for its approval.

E. The secretary may make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department and its divisions. A rule promulgated by the director of a division in carrying out the functions and duties of the division shall not be effective until approved by the secretary. Unless otherwise provided by statute, a rule affecting a person or agency outside the department shall not be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the secretary. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule or proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules shall be filed in accordance with the State Rules Act.

F. The secretary may authorize vendors to sell tickets, passes or other department products in compliance with rules adopted by the secretary. A vendor authorized to sell tickets, passes or other department products may retain a portion of the sale price."

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Senate Bill 78

Approved February 28, 2018

## **LAWS 2018, CHAPTER 15**

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; DECLARING AN EMERGENCY.

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

### **Chapter 15 Section 1 Laws 2018**

SECTION 1. AUTHORIZATION OF QUALIFYING WATER PROJECTS.-- Pursuant to Section 72-4A-9 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans or grants from the water project fund to the following qualifying entities for the following qualifying water projects on terms and conditions established by the water trust board and the New Mexico finance authority:

1. to the village of Columbus in Luna county for a flood prevention project;
2. to the city of Sunland Park in Dona Ana county for a flood prevention project;
3. to the upper Rio Grande watershed district in Rio Arriba county for a flood prevention project;
4. to the city of Carlsbad in Eddy county for a water conservation or treatment, recycling or reuse project;
5. to the village of Chama in Rio Arriba county for a water conservation or treatment, recycling or reuse project;
6. to the city of Clovis in Curry county for a water conservation or treatment, recycling or reuse project;

7. to the city of Jal in Lea county for a water conservation or treatment, recycling or reuse project;

8. to the Trampas mutual domestic water consumers and mutual sewage works association in Taos county for a water conservation or treatment, recycling or reuse project;

9. to the eastern New Mexico water utility authority in Curry county for a water storage, conveyance and delivery project;

10. to the city of Portales in Roosevelt county for a water storage, conveyance and delivery project;

11. to the 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;

12. to the city of Gallup in McKinley county for a water storage, conveyance and delivery project;

13. to the town of Elida in Roosevelt county for a water storage, conveyance and delivery project;

14. to the Ancones mutual domestic water and wastewater consumers association in Rio Arriba county for a water storage, conveyance and delivery project;

15. to the Albuquerque-Bernalillo county water utility authority in Bernalillo county for a water storage, conveyance and delivery project;

16. to the Garfield mutual domestic water consumers and mutual sewage works association in Dona Ana county for a water storage, conveyance and delivery project;

17. to the Alcalde mutual domestic water consumers and mutual sewage works association in Rio Arriba county for a water storage, conveyance and delivery project;

18. to the town of Carrizozo in Lincoln county for a water storage, conveyance and delivery project;

19. to the Valley Estates mutual water and sewer association in Rio Arriba county for a water storage, conveyance and delivery project;

20. to the Sierra soil and water conservation district in Sierra county for a watershed restoration and management project;

21. to the Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project; and

22. to the East Rio Arriba soil and water conservation district in Rio Arriba county for a watershed restoration and management project.

## **Chapter 15 Section 2 Laws 2018**

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

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Senate Bill 170, w/ec

Approved February 28, 2018

## **LAWS 2018, CHAPTER 16**

AN ACT

RELATING TO NATURAL RESOURCES; AMENDING THE OIL AND GAS ACT; INCREASING THE MAXIMUM AMOUNT OF FINANCIAL ASSURANCE REQUIRED FOR THE PLUGGING OF ABANDONED WELLS; MAKING STYLISTIC AND CONFORMING CHANGES.

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

## **Chapter 16 Section 1 Laws 2018**

SECTION 1. Section 70-2-12 NMSA 1978 (being Laws 1978, Chapter 71, Section 1, as amended) is amended to read:

"70-2-12. ENUMERATION OF POWERS.--

A. The oil conservation division of the energy, minerals and natural resources department may:

- (1) collect data;
- (2) make investigations and inspections;
- (3) examine properties, leases, papers, books and records;



(4) examine, check, test and gauge oil and gas wells, tanks, plants, refineries and all means and modes of transportation and equipment;

(5) hold hearings;

(6) provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports;

(7) limit and prorate production of crude petroleum oil or natural gas or both as provided in the Oil and Gas Act; and

(8) require either generally or in particular areas certificates of clearance or tenders in connection with the transportation of crude petroleum oil or natural gas or any products of either or both oil and products or both natural gas and products.

B. The oil conservation division may make rules and orders for the purposes and with respect to the subject matter stated in this subsection:

(1) to require dry or abandoned wells to be plugged in a way to confine the crude petroleum oil, natural gas or water in the strata in which it is found and to prevent it from escaping into other strata; pursuant to Section 70-2-14 NMSA 1978, the division shall require financial assurance conditioned for the performance of the rules;

(2) to prevent crude petroleum oil, natural gas or water from escaping from strata in which it is found into other strata;

(3) to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports;

(4) to prevent the drowning by water of any stratum or part thereof capable of producing oil or gas or both oil and gas in paying quantities and to prevent the premature and irregular encroachment of water or any other kind of water encroachment that reduces or tends to reduce the total ultimate recovery of crude petroleum oil or gas or both oil and gas from any pool;

(5) to prevent fires;

(6) to prevent "blow-ups" and "caving" in the sense that the conditions indicated by such terms are generally understood in the oil and gas business;

(7) to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties;

(8) to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities;

(9) to require the operation of wells with efficient gas-oil ratios and to fix such ratios;

(10) to fix the spacing of wells;

(11) to determine whether a particular well or pool is a gas or oil well or a gas or oil pool, as the case may be, and from time to time to classify and reclassify wells and pools accordingly;

(12) to determine the limits of any pool producing crude petroleum oil or natural gas or both and from time to time redetermine the limits;

(13) to regulate the methods and devices employed for storage in this state of oil or natural gas or any product of either, including subsurface storage;

(14) to permit the injection of natural gas or of any other substance into any pool in this state for the purpose of repressuring, cycling, pressure maintenance, secondary or any other enhanced recovery operations;

(15) to regulate the disposition of water produced or used in connection with the drilling for or producing of oil or gas or both and to direct surface or subsurface disposal of the water, including disposition by use in drilling for or production of oil or gas, in road construction or maintenance or other construction, in the generation of electricity or in other industrial processes, in a manner that will afford reasonable protection against contamination of fresh water supplies designated by the state engineer;

(16) to determine the limits of any area containing commercial potash deposits and from time to time redetermine the limits;

(17) to regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect unduly to reduce the total quantity of the commercial deposits of potash that may reasonably be recovered in commercial quantities or where the operations would interfere unduly with the orderly commercial development of the potash deposits;

(18) to spend the oil and gas reclamation fund and do all acts necessary and proper to plug dry and abandoned oil and gas wells and to restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules adopted under that act and the

Procurement Code, including disposing of salvageable equipment and material removed from oil and gas wells being plugged by the state;

(19) to make well price category determinations pursuant to the provisions of the federal Natural Gas Policy Act of 1978 or any successor act and, by regulation, to adopt fees for such determinations, which fees shall not exceed twenty-five dollars (\$25.00) per filing. Such fees shall be credited to the account of the oil conservation division by the state treasurer and may be expended as authorized by the legislature;

(20) to regulate the construction and operation of oil treating plants and to require the posting of bonds for the reclamation of treating plant sites after cessation of operations;

(21) to regulate the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment; and

(22) to regulate the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil to protect public health and the environment, including administering the Water Quality Act as provided in Subsection E of Section 74-6-4 NMSA 1978."

## **Chapter 16 Section 2 Laws 2018**

SECTION 2. Section 70-2-14 NMSA 1978 (being Laws 1977, Chapter 237, Section 3, as amended by Laws 2015, Chapter 79, Section 1 and by Laws 2015, Chapter 99, Section 1) 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, which shall be set by rule in an amount not to exceed two hundred fifty thousand dollars (\$250,000), 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."

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Senate Bill 189

Approved February 28, 2018

## **LAWS 2018, CHAPTER 17**

AN ACT

RELATING TO TELECOMMUNICATIONS; ENACTING THE WIRELESS CONSUMER ADVANCED INFRASTRUCTURE INVESTMENT ACT; ESTABLISHING PROVISIONS FOR THE DEPLOYMENT OF CELLULAR NETWORK NODES IN PUBLIC RIGHTS OF WAY.

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

**Chapter 17 Section 1 Laws 2018**

SECTION 1. SHORT TITLE.--This act may be cited as the "Wireless Consumer Advanced Infrastructure Investment Act".

## **Chapter 17 Section 2 Laws 2018**

SECTION 2. DEFINITIONS.--As used in the Wireless Consumer Advanced Infrastructure Investment Act:

A. "antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals and that is used to provide wireless services;

B. "applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization and enacted by the authority, including the local amendments to those codes enacted by the authority solely to address imminent threats of destruction of property or injury to persons, to the extent that those amendments are consistent with the Wireless Consumer Advanced Infrastructure Investment Act;

C. "applicant" means a wireless provider that submits an application;

D. "application" means a request submitted by an applicant to an authority for a permit to collocate one or more small wireless facilities or to approve the installation, modification or replacement of a utility pole or wireless support structure;

E. "authority" means a municipality or county;

F. "authority utility pole" means a utility pole, owned or operated by an authority, in a right of way;

G. "collocate" means to install, mount, maintain, modify, operate or replace one or more wireless facilities on, in or adjacent to a wireless support structure or utility pole;

H. "communications service" means cable service as defined in 47 U.S.C. Section 522(6), information service as defined in 47 U.S.C. Section 153(24), mobile service as defined in 47 U.S.C. Section 153(33), telecommunications service as defined in 47 U.S.C. Section 153(53) or wireless service other than mobile service;

I. "fee" means a one-time charge;

J. "law" includes federal, state or local law;

K. "permit" means the written permission of an authority for a wireless provider to install, mount, maintain, modify, operate or replace a utility pole or to collocate a small wireless facility on a utility pole or wireless support structure;

L. "person":

(1) means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization; and

(2) includes an authority;

M. "private easement" means an easement or other real property right given for the benefit of the grantee of the easement and the grantee's successors and assigns;

N. "rate" means a recurring charge;

O. "right of way":

(1) means the area on, below or above a public roadway, highway, street, sidewalk, alley or utility easement; and

(2) does not include the area on, below or above:

(a) a federal interstate highway;

(b) a state highway or route under the jurisdiction of the department of transportation;

(c) a private easement; or

(d) a utility easement that does not authorize the deployment sought by a wireless provider;

P. "small wireless facility" means a wireless facility whose:

(1) antennas are, or could fit, inside an enclosure with a volume of six or fewer cubic feet; and

(2) other ground- or pole-mounted wireless equipment, not including the following, is twenty-eight or fewer cubic feet in volume:

(a) electric meter;

(b) concealment elements;

(c) telecommunications demarcation box;

(d) grounding equipment;

(e) power transfer switch;

(f) cutoff switch;

(g) vertical cable runs for the connection of power and other services; and

(h) elements required by an authority in accordance with Subsection H of Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act;

Q. "utility pole":

(1) means a pole or similar structure used in whole or in part for communications services, electricity distribution, lighting or traffic signals; and

(2) does not include a wireless support structure or electric transmission structure;

R. "wireless facility":

(1) means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(a) equipment associated with wireless communications; and

(b) radio transceivers, antennas, coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration;

(2) includes a small wireless facility; and

(3) does not include:

(a) the structure or improvements on, under or within which the equipment is collocated;

(b) a wireline backhaul facility, coaxial cable or fiber-optic cable between wireless support structures or utility poles; or

(c) coaxial or fiber-optic cable otherwise not immediately adjacent to, or directly associated with, an antenna;

S. "wireless infrastructure provider" means a person, other than a wireless services provider, that may provide telecommunications service in New Mexico and that



builds or installs wireless communications transmission equipment, wireless facilities' utility poles or wireless support structures;

T. "wireless provider" means a wireless infrastructure provider or wireless services provider;

U. "wireless services" means services provided to the public that use licensed or unlicensed spectrum, either mobile or at a fixed location, through wireless facilities;

V. "wireless services provider" means a person that provides wireless services;

W. "wireless support structure" means a freestanding structure, including a monopole or guyed or self-supporting tower, but not including a utility pole; and

X. "wireline backhaul facility" means a facility used to transport services by wire from a wireless facility to a network.

## **Chapter 17 Section 3 Laws 2018**

### **SECTION 3. WIRELESS PROVIDER--USE OF RIGHT OF WAY--RATES, FEES AND TERMS--RIGHT TO ACCESS--DAMAGE AND REPAIR.--**

A. This section applies to the activities of a wireless provider within a right of way.

B. An authority shall not enter into an exclusive agreement with a wireless provider for the use of a right of way in:

(1) constructing, installing, maintaining, modifying, operating or replacing a utility pole; or

(2) collocating a small wireless facility on a utility pole or wireless support structure.

C. An authority may charge a wireless provider a rate or fee for the provider's use of a right of way in constructing, installing, maintaining, modifying, operating or replacing a utility pole, or in collocating a small wireless facility, in the right of way only if:

(1) the authority otherwise may, under law, charge the rate or fee;

(2) the authority charges other communications service providers for their use, if any, of the right of way; and

(3) the rate or fee:

(a) is competitively neutral as compared to other users, if any, of the right of way, unless the other users are exempt under law from paying a rate or fee for their use of the right of way;

(b) is not in the form of a franchise or other fee based on revenue or customer counts;

(c) is reasonable and nondiscriminatory; and

(d) annually, does not exceed an amount equal to two hundred fifty dollars (\$250) multiplied by the number of small wireless facilities placed by the wireless provider in the right of way and in the authority's jurisdiction.

D. An authority may adjust the rate it charges for the use of a right of way, but no more often than once a year and by no more than an amount equal to one-half the annual change, if any, in the most recent consumer price index for all urban consumers for New Mexico, as published by the United States department of labor. An authority that adjusts that rate shall notify all wireless providers charged the pre-adjusted rate of the prospective adjustment and shall make the adjustment effective sixty days or more following that notice.

E. Except as otherwise provided in the Wireless Consumer Advanced Infrastructure Investment Act, and subject to the approval of an application as provided in Section 4 of that act, a wireless provider may collocate small wireless facilities and construct, install, modify, mount, maintain, operate and replace utility poles associated with the collocation of a small wireless facility along, across, on or under the right of way.

F. If a wireless provider or the provider's contractor causes damage to the authority's property or right of way while the provider or contractor occupies, installs, repairs or maintains a small wireless facility, wireless support structure or utility pole in the right of way, the authority may require the provider to return the property to its pre-damage condition according to the authority's requirements and specifications if the requirements and specifications are competitively neutral and reasonable and upon written notice of the requirement to the provider. If the provider does not, within a reasonable period after receiving the notice, repair the property as required by the authority, the authority may make the repairs and charge the provider the reasonable, documented cost of the repairs.

G. A wireless provider that deploys a utility pole or small wireless facility in a right of way shall construct, maintain and locate it so as not to obstruct or hinder the usual travel on, or endanger the public in, the right of way, damage or interfere with another utility facility in the right of way or interfere with another utility's use of its facility in the right of way. In constructing and maintaining its utility pole or small wireless

facility, the wireless provider shall comply with the national electrical safety code and all applicable laws for the protection of underground and overhead utility facilities. An authority shall treat a wireless provider's utility poles and small wireless facilities in a right of way as it does the facilities, if any, of other utilities in the right of way; however, the authority may adopt reasonable regulations concerning the separation of the wireless provider's utility poles and small wireless facilities from other utility facilities in the right of way to prevent damage to, or interference with, the facilities or to prevent interference with a utility's use of its facility or facilities in, or to be placed in, the right of way.

H. Subject to Subsection E of Section 4 of the Wireless Consumer Advanced Infrastructure Investment Act, an authority may require, as they pertain to small wireless facilities located in design districts or historic districts, reasonable, technically feasible, nondiscriminatory and technologically neutral design or concealment measures and reasonable measures for conforming to the design aesthetics of design districts or historic districts, as long as the measures do not have the effect of prohibiting a wireless provider's technology. As used in this subsection:

(1) "design district" means an area zoned or otherwise designated by municipal ordinance and for which a municipality maintains and uniformly enforces unique design and aesthetic standards; and

(2) "historic district" means a group of buildings, properties or sites that fall within the category defined in 47 C.F.R. 1.1307(a)(4) and are:

(a) listed in the national register of historic places or formally determined eligible for listing in that register by the keeper of the register in accordance with the nationwide programmatic agreement found in 47 C.F.R. Part 1, Appendix C; or

(b) designated as a historic district in accordance with the Historic District and Landmark Act.

I. Without the authority's discretionary and written consent, which the authority shall give in a nondiscriminatory way, a wireless provider shall not install a new utility pole in a right of way adjacent to a street or thoroughfare that is:

(1) fifty feet wide or less; and

(2) adjacent to single-family residential lots or other multifamily residences or to undeveloped land designated for residential use by zoning or deed restrictions.

J. A wireless provider that installs a new utility pole or small wireless facility in a right of way as described in Subsection H of this section shall comply with applicable private deed restrictions and other private restrictions affecting the area.

K. A wireless provider shall notify an authority in writing of its intention to discontinue its use of a small wireless facility or utility pole. The notice shall inform the authority of the time and the way in which the wireless provider intends to remove the small wireless facility or utility pole. The wireless provider is responsible for the costs of the removal. The authority may require the wireless provider to return the property to its pre-installation condition according to the authority's reasonable and nondiscriminatory requirements and specifications. If the wireless provider does not complete the removal within forty-five days after the notice, the authority may complete the removal and assess the costs of removal against the wireless provider. The permit for the small wireless facility or utility pole expires upon removal.

## **Chapter 17 Section 4 Laws 2018**

### **SECTION 4. COLLOCATION OF A SMALL WIRELESS FACILITY--PERMITS--APPLICATION--FEE.--**

A. This section applies to a wireless provider's collocation activities within a right of way.

B. An authority may prohibit, regulate or charge for the collocation of a small wireless facility only as provided in this section and Sections 3, 6 and 7 of the Wireless Consumer Advanced Infrastructure Investment Act.

C. A small wireless facility collocated on a utility pole or wireless support structure that extends ten or fewer feet above the pole or structure in a right of way in any zone is classified as a permitted use and is not subject to zoning review or approval.

D. An authority may require an applicant to obtain one or more permits to collocate a small wireless facility in a right of way if the requirement is of general applicability to users of the right of way. An applicant seeking to collocate, within an authority's jurisdiction, up to twenty-five small wireless facilities, all of which are substantially the same type, on substantially the same types of structures may file a consolidated application for the collocation of the facilities. An applicant shall not file with an authority more than one consolidated application in any five-business-day period. The applicant shall include in a consolidated application an attestation that, unless a delay in collocation is caused by the lack of commercial power or fiber at the site, the collocation will begin within one hundred eighty days after the permit issuance date. The authority and the provider may subsequently agree to extend that period.

E. An authority shall:

(1) without bias, accept and process applications and issue permits to collocate small wireless facilities;

(2) within thirty days after receiving an application, determine and notify the applicant of whether the application is complete and:

(a) for an incomplete application, specifically identify the information missing from it; and

(b) deem the application complete if the applicant is not notified within the thirty-day period;

(3) within ninety days after receiving a completed application, approve or deny it and deem the application approved if that approval or denial is not given within the ninety-day period. The authority may request an extension of the ninety-day period, and the authority and applicant may agree to extend that period. An applicant shall not unreasonably deny an authority's request to extend the period;

(4) approve a completed application unless the application does not conform with:

(a) applicable codes or local laws concerning: 1) public safety; 2) design for utility poles, but only to the extent that the standards the codes or laws impose are objective; 3) stealth and concealment, but only to the extent that the restrictions the codes or laws impose are reasonable; and 4) the spacing of ground-mounted equipment in a right of way; and

(b) requirements imposed by the authority in accordance with Subsection H of Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act; and

(5) if it denies an application, document the basis for the denial, including the specific code or law on which the denial was based, and send that documentation to the applicant on or before the date the application is denied.

F. In the ninety-day period after an authority receives an application to collocate a small wireless facility, the authority may:

(1) provide public notice of the application and an opportunity for written public comment on the application; and

(2) submit the written public comment to the applicant and request that the applicant respond to it.

G. If an authority determines that applicable codes or laws require that a utility pole or wireless support structure be replaced before an application for collocation is approved, the authority may condition approval of the application on that replacement. That replacement is subject to Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act.

H. An applicant whose application is denied may cure the deficiencies identified by the authority and submit a revised application within thirty days after the denial for no additional fee. The authority shall base its review of the revised application only on the deficiencies cited in the denial and shall approve or deny the revised application within thirty days after receiving it.

I. If an application is for the collocation of multiple small wireless facilities, the authority may:

(1) treat as separate those for which incomplete information has been provided, that do not qualify for consolidated treatment or that are denied; and

(2) issue separate permits for the collocations that it approves.

J. An authority shall not:

(1) directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as the making of in-kind contributions to the authority of reserving fiber, conduit or pole space on the wireless provider's utility pole;

(2) require an applicant to provide more information to obtain a permit than the authority requires of a communications service provider that is not a wireless provider and that requests a permit to attach facilities to a structure; however, the authority may require the applicant to certify that the small wireless facilities to be collocated conform with the federal communications commission's regulations concerning radio frequency emissions;

(3) institute, either expressly or de facto, a moratorium on the acceptance or processing of applications or on the issuance of permits or other approvals, if any, for the collocation of small wireless facilities; or

(4) except as otherwise provided in Subsection K of this section, require an application, approval or permit or impose a fee, rate or other charge for:

(a) the routine maintenance of a small wireless facility;

(b) the replacement of a small wireless facility with one that is substantially similar in size to, the same size as or smaller than it, as long as the wireless provider that owns the wireless facility notifies the authority of the replacement at least ten days before the replacement; or

(c) the installation, maintenance, operation, placement or replacement of a micro wireless facility that is, in accordance with applicable codes, suspended on cables strung between utility poles or wireless structures. As used in this subparagraph, "micro wireless facility" means a small wireless facility less than twenty-

four inches long, fifteen inches wide and twelve inches high whose exterior antenna, if any, is less than eleven inches long.

K. An authority may require a permit to engage, within rights of way, in activities that are identified in Paragraph (4) of Subsection J of this section and that affect traffic patterns or require lane closures.

L. The collocation for which a permit is issued shall begin within one hundred eighty days after the permit issuance date, unless the authority and the wireless provider agree to extend that period or a delay in collocation is caused by the lack of commercial power or fiber at the site. The permit gives the wireless provider the right to:

(1) collocate the small wireless facility; and

(2) subject to applicable relocation requirements, the requirements imposed on the authority by Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act and to the wireless provider's right to terminate collocation at any time:

(a) operate and maintain the small wireless facility for at least ten years; and

(b) renew the permit for the same period, unless the authority finds that the small wireless facility does not conform with the applicable codes and local laws set forth in Paragraph (4) of Subsection E of this section.

M. An authority may charge an applicant an application fee in the amount of one hundred dollars (\$100) or less for each of up to five small wireless facilities and fifty dollars (\$50.00) or less for each additional small wireless facility whose collocation is requested in a single application.

N. The approval of an application under the Wireless Consumer Advanced Infrastructure Investment Act does not authorize the provision of a service or authorize the installation, placement, maintenance or operation of a wireline backhaul facility in a right of way.

O. The Wireless Consumer Advanced Infrastructure Investment Act shall not be deemed to allow a person, without the consent of the property owner, to collocate a small wireless facility on a privately owned utility pole, a privately owned wireless support structure or private property.

## **Chapter 17 Section 5 Laws 2018**

SECTION 5. INSTALLATION, REPLACEMENT OR MODIFICATION OF A UTILITY POLE--PERMITS--APPLICATION--FEE.--

A. This section applies to the activities of a wireless provider in installing a new, replacement or modified utility pole associated with the collocation of a small wireless facility in a right of way.

B. A new, replacement or modified utility pole associated with the collocation of a small wireless facility and installed in a right of way is not subject to zoning review and approval, except for that which pertains to the under-grounding prohibitions described in Subparagraph (c) of Paragraph (1) of Subsection C of this section, unless the utility pole, as measured from the ground level, is higher than whichever of the following is greater:

(1) ten feet plus the height in feet of the tallest existing utility pole, other than a utility pole supporting only one or more wireless facilities, that is:

(a) in place on the effective date of the Wireless Consumer Advanced Infrastructure Investment Act;

(b) located within five hundred feet of the new, replacement or modified utility pole;

(c) in the same right of way and within the jurisdictional boundary of the authority; and

(d) fifty or fewer feet above ground level; or

(2) fifty feet.

C. An authority may require an application for the installation of a new, replacement or modified utility pole associated with the collocation of a small wireless facility in a right of way. An authority shall approve such an application unless the authority finds that the installation of the utility pole does not conform with:

(1) applicable codes or local laws concerning:

(a) public safety;

(b) design for utility poles, but only to the extent that the standards the codes or laws impose are objective; and

(c) under-grounding prohibitions on the installation of new, or the modification of existing, utility poles in a right of way without prior approval, if those regulations: 1) require that all cable and public utility facilities be placed underground by a date certain within one year after the application; 2) include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles; and 3) allow the replacement of utility poles;



(2) the federal Americans with Disabilities Act of 1990 or similar federal or state standards for pedestrian access or movement;

(3) requirements imposed by the authority in accordance with Subsection H of Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act;

(4) requirements imposed by contract between an authority and a private property owner concerning the design of utility poles in the right of way; or

(5) the authority's laws concerning public safety and imposing minimum spacing requirements, if reasonable, for new utility poles in rights of way.

D. An authority shall process an application for a permit to install a new, replacement or modified utility pole associated with the collocation of a small wireless facility within one hundred fifty days after receiving the application. If the authority fails to approve or deny the application within that period, the authority shall deem the application approved. The application fee, if any, imposed by the authority for such an application shall conform with the requirements of Subsection M of Section 4 of the Wireless Consumer Advanced Infrastructure Investment Act and shall not exceed seven hundred fifty dollars (\$750).

E. The installation, modification or replacement for which a permit is issued under this section shall begin within one hundred eighty days after the permit issuance date, unless the authority and wireless provider agree to extend that period or a delay in the installation, modification or replacement is caused by the lack of commercial power or fiber at the site. The permit gives the wireless provider the right to:

(1) undertake the requested deployment; and

(2) subject to applicable relocation requirements, to the requirements imposed on the authority by this section and to the provider's right to terminate the installation at any time:

(a) operate and maintain the new, modified or replacement utility pole for a period of at least ten years; and

(b) renew the permit for that same period, unless the authority finds that the new or modified utility pole does not conform with the restrictions set forth in Subsection C of this section.

## **Chapter 17 Section 6 Laws 2018**

SECTION 6. ACCESS TO AUTHORITY UTILITY POLES--RATES AND FEES--COLLOCATIONS FOR OTHER COMMERCIAL PROJECTS OR USES.--

A. An authority shall not enter into an exclusive agreement with a person for the right to attach a small wireless facility to an authority utility pole.

B. The rates and fees an authority imposes for the collocation of a small wireless facility on an authority utility pole shall not vary according to the services provided by the collocating person.

C. The rate to collocate a small wireless facility on an authority utility pole shall not exceed twenty dollars (\$20.00) per utility pole per year.

D. An authority shall process an application for a permit to collocate a small wireless facility on an authority utility pole in accordance with Section 4 of the Wireless Consumer Advanced Infrastructure Investment Act. The authority may condition the issuance of the permit on the wireless provider's replacement of the authority utility pole if the authority determines that applicable codes or local laws concerning public safety require that replacement. The authority shall process an application for a permit to install a replacement authority utility pole in accordance with Section 5 of the Wireless Consumer Advanced Infrastructure Investment Act. The authority shall retain ownership of the replacement utility pole.

E. An authority may prohibit, regulate and charge for the collocation of a small wireless facility on a wireless support structure owned by the authority.

## **Chapter 17 Section 7 Laws 2018**

### **SECTION 7. ESTABLISHMENT OF RATES, FEES AND TERMS--EXTENSION OF TERM TO FULFILL DUTIES.--**

A. An authority may adopt an ordinance setting forth the rates, fees and terms for implementing the Wireless Consumer Advanced Infrastructure Investment Act. In the absence of such an ordinance, an authority and a wireless provider may enter into an agreement setting forth those rates, fees and terms. Documents showing the rates, fees and terms agreed to by an authority and a wireless provider are public records.

B. The rates, fees and terms for a wireless provider's use of a right of way as set forth in Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act and for access to authority utility poles as set forth in Section 6 of that act shall accord with that act, and the terms:

(1) shall be reasonable and nondiscriminatory;

(2) may include requirements that the authority has previously applied to other users of the right of way;

(3) may require that the wireless provider's operation of a small wireless facility in the right of way not interfere with the authority's public safety communications;

(4) except as otherwise provided in Subsection C of Section 5 of that act, shall not:

(a) require the placement of a small wireless facility on a specific utility pole or category of poles or require multiple antenna systems on a single utility pole; or

(b) restrict the placement of small wireless facilities by imposing minimum horizontal spacing requirements; and

(5) subject to Section 9 of that act, shall provide for the reasonable accommodation of a power supply to, and electric metering of, the small wireless facility.

C. An agreement between an authority and a wireless provider in effect on the effective date of the Wireless Consumer Advanced Infrastructure Investment Act and that concerns the collocation of one or more small wireless facilities in a right of way, including that collocation on authority utility poles, remains in effect subject to applicable termination provisions. A wireless provider in such an agreement may, after they become effective, accept the rates, fees and terms established in accordance with Subsection B of this section for the small wireless facilities and utility poles that are the subject of an application.

D. If the federal government, the state or an authority declares a disaster and that disaster impedes an authority's or wireless provider's ability to fulfill the duties imposed on it by the Wireless Consumer Advanced Infrastructure Investment Act or by an ordinance adopted in accordance with this section, the term under which those duties must be fulfilled is extended for a reasonable period.

## **Chapter 17 Section 8 Laws 2018**

### **SECTION 8. SCOPE OF LOCAL AUTHORITY.--**

A. Except as otherwise provided in the Wireless Consumer Advanced Infrastructure Investment Act, an authority may exercise its zoning, land use, planning and permitting authority and its police power for the installation, modification and replacement of wireless support structures and utility poles.

B. An authority's power to control the design, engineering, construction, installation or operation of a small wireless facility in an interior structure or on the site of a campus, stadium or athletic facility not owned or controlled by the authority is limited to its authority to enforce compliance with applicable codes.

C. The Wireless Consumer Advanced Infrastructure Investment Act does not authorize the state or a political subdivision of the state to require small wireless facility deployment or to regulate wireless services.

D. If an authority determines that a utility pole or the wireless support structure of a wireless provider must be relocated to accommodate a public project, the provider shall assume the costs of relocating the wireless facilities deployed on the pole or structure.

## **Chapter 17 Section 9 Laws 2018**

SECTION 9. APPLICABILITY.--The Wireless Consumer Advanced Infrastructure Investment Act does not:

A. affect the authority, under state or federal law, of an investor-owned electric utility or electric cooperative that owns, controls or operates utility poles or wireless support structures to deny, limit, restrict or determine the rates, fees, terms and conditions for the use of, or attachment to, those poles or structures by a wireless provider;

B. confer on an authority any zoning, land use, planning, permitting or other regulatory authority over the utility poles, wireless support structures or small wireless facilities owned, controlled or operated by an investor-owned electric utility or electric cooperative or the installation of those poles, structures or facilities by an investor-owned electric utility or electric cooperative;

C. impose a duty, liability or restriction on any investor-owned electric utility or electric cooperative;

D. amend, modify or otherwise affect the provisions affecting a private easement; or

E. authorize an authority to:

(1) require of a public telecommunications company that provides telecommunications services under a certificate of public convenience and necessity issued by the state an additional grant of authority to provide those services; or

(2) discriminate against such a company in its use of rights of way.

## **Chapter 17 Section 10 Laws 2018**

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is September 1, 2018.

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HBIC/House Bill 38, w/cc

Approved February 28, 2018

## **LAWS 2018, CHAPTER 18**

AN ACT

MAKING AN APPROPRIATION FOR WASTEWATER SYSTEM FINANCING.

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

### **Chapter 18 Section 1 Laws 2018**

SECTION 1. APPROPRIATION.--One million one hundred thousand dollars (\$1,100,000) is appropriated from the public project revolving fund to the wastewater facility construction loan fund pursuant to Section 6-21-6.1 NMSA 1978 for expenditure in fiscal year 2019 and subsequent fiscal years to provide state matching funds for federal Clean Water Act of 1977 projects and to carry out the purposes of the Wastewater Facility Construction Loan Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

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House Bill 65

Approved February 28, 2018

## **LAWS 2018, CHAPTER 19**

AN ACT

RELATING TO THE WASTEWATER FACILITY CONSTRUCTION LOAN ACT;  
CLARIFYING THAT FUNDING ASSISTANCE IS AVAILABLE FOR ELIGIBLE  
PROJECTS AS PROVIDED BY THE FEDERAL CLEAN WATER ACT;  
ALPHABETIZING DEFINITIONS AND ADDING DEFINITIONS FOR "ELIGIBLE  
PROJECT" AND "QUALIFIED BORROWER"; MAKING CONFORMING CHANGES.

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

### **Chapter 19 Section 1 Laws 2018**

SECTION 1. Section 74-6A-2 NMSA 1978 (being Laws 1986, Chapter 72, Section 2, as amended) is amended to read:

"74-6A-2. PURPOSE.--The purpose of the Wastewater Facility Construction Loan Act is to provide state agencies, local authorities, interstate agencies and other qualified borrowers in New Mexico with low-cost financial assistance in the construction of necessary wastewater facilities and other eligible projects through the creation of a self-sustaining program so as to improve and protect water quality and public health."

## **Chapter 19 Section 2 Laws 2018**

SECTION 2. 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. "account" means the wastewater suspense account;

B. "administrative fee" means a fee assessed and collected by the department from a qualified borrower 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;

C. "board" means the state board of finance;

D. "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;

E. "Clean Water Act" means the federal Clean Water Act of 1977 and its subsequent amendments or successor provisions;

F. "commission" means the water quality control commission;

G. "division" or "department" means the department of environment;

H. "eligible project" means a project or activity that is eligible for funding assistance under Section 603(c) of the Clean Water Act, Section 1383 of Title 33 of the United States Code, as of January 1, 2018 including a wastewater facility project, a nonpoint source water pollution control project and a watershed project that meet the criteria of the Clean Water Act;

I. "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;

J. "financial assistance" means loans, the purchase or refinancing of existing state agency or 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;

K. "force account construction" means construction performed by the employees of a local authority rather than through a contractor;

L. "fund" means the wastewater facility construction loan fund;

M. "holders" means persons who are owners of bonds, whether registered or not, issued pursuant to the Wastewater Facility Construction Loan Act;

N. "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;

O. "local authority" means a municipality, intermunicipal agency, 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;

P. "operate and maintain" means to perform all necessary activities, including replacement of equipment or appurtenances, to ensure the dependable and economical function of an eligible project in accordance with its intended purpose;

Q. "qualified borrower" means a creditworthy borrower with an identified and verifiable repayment source that is eligible to receive funding pursuant to the Clean Water Act, as of January 1, 2018 including a state agency, an interstate agency and a local authority;

R. "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;

S. "state agency" means an agency or department of the executive branch of government; and

T. "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."

## **Chapter 19 Section 3 Laws 2018**

SECTION 3. Section 74-6A-4 NMSA 1978 (being Laws 1991, Chapter 172, Section 4, as amended) is amended to read:

"74-6A-4. WASTEWATER FACILITY CONSTRUCTION LOAN FUND  
CREATED--ADMINISTRATION.--

A. There is created in the state treasury a revolving loan fund to be known as the "wastewater facility construction loan fund", which shall be administered by the division as agent for the commission and operated as a separate account. The commission is authorized to establish procedures and adopt regulations as required to administer the fund in accordance with the Clean Water Act and state law. Any regulations relating to the issuance of bonds and the expenditure of proceeds of bond issues shall be approved by the board. The commission shall, whenever possible, coordinate application procedures and funding cycles with the New Mexico Community Assistance Act.

B. The following shall be deposited directly in the fund:

(1) grants from the federal government or its agencies allotted to the state for capitalization of the fund;

(2) funds as appropriated by the legislature to implement the provisions of the Wastewater Facility Construction Loan Act or to provide state matching funds that are required by the terms of any federal grant under the Clean Water Act;

(3) loan principal, interest and penalty payments if required by the terms of any federal grant under the Clean Water Act;

(4) money transferred from the account as needed to fulfill requirements of the Clean Water Act; and

(5) any other public or private money dedicated to the fund.

C. Money in the fund is appropriated for expenditure by the commission in a manner consistent with the terms and conditions of the federal capitalization grants and the Clean Water Act and may be used:

(1) to provide funding for eligible projects;



(2) to purchase, refund or refinance obligations incurred by local authorities in the state for eligible projects where the obligations were incurred and construction commenced after March 7, 1985;

(3) to guarantee, or purchase insurance for, obligations of local authorities to improve credit market access or reduce interest rates;

(4) to provide a source of revenue or security for the payments of principal and interest on bonds recommended by the commission and issued by the board if the proceeds of the bonds are deposited in the fund to the extent provided in the terms of the federal grant;

(5) to provide loan guarantees for similar revolving funds established by local authorities;

(6) to fund the administrative expenses of the board, the commission and the division necessary to implement the provisions of the Wastewater Facility Construction Loan Act, including costs of servicing loans and issuing bonds, fund start-up costs, financial management and legal consulting fees and reimbursement costs for support services from other state agencies; and

(7) to fund other programs for which the federal government authorizes use of wastewater grants or to provide for any other expenditure consistent with the Clean Water Act grant program and state law.

D. Pursuant to regulations adopted by the commission, the division may impose and collect an administrative fee from each qualified borrower that receives financial assistance from the fund, which fee shall not exceed five percent of the total loan amount and which shall be deposited in the clean water administrative fund.

E. Money not currently needed for the operation of the fund or otherwise dedicated may be invested according to the provisions of Chapter 6, Article 10 NMSA 1978, and all interest earned on such investments shall be credited to the fund. Money remaining in the fund at the end of any fiscal year shall not revert to the general fund but shall accrue to the credit of the fund.

F. Acting as agent for the commission, the division shall maintain full authority for the operation of the fund in accordance with applicable federal and state law, including preparing the annual intended use plan and ensuring that loan recipients are on the state priority list or otherwise satisfy Clean Water Act requirements.

G. The division shall establish fiscal controls and accounting procedures that are sufficient to ensure proper accounting for fund payments, disbursements and balances and shall provide an annual report and an annual independent audit on the fund to the governor and to the United States environmental protection agency as required by the Clean Water Act."

## **Chapter 19 Section 4 Laws 2018**

SECTION 4. Section 74-6A-7 NMSA 1978 (being Laws 1991, Chapter 172, Section 5) is amended to read:

"74-6A-7. LOAN PROGRAM--ADMINISTRATION.--

A. The division shall establish a program to provide financial assistance to qualified borrowers, individually or jointly, for eligible projects. The division as agent of the commission is authorized to enter into contracts and other agreements to carry out the provisions of the Wastewater Facility Construction Loan Act, including contracts and agreements with federal agencies, local authorities and other parties.

B. The commission shall adopt a system for the ranking of eligible projects for financial assistance."

## **Chapter 19 Section 5 Laws 2018**

SECTION 5. Section 74-6A-8 NMSA 1978 (being Laws 1991, Chapter 172, Section 6, as amended) is amended to read:

"74-6A-8. FINANCIAL ASSISTANCE--CRITERIA.--

A. Financial assistance shall be provided only to qualified borrowers that:

(1) meet the requirements for financial capability set by the division to assure sufficient revenues to operate and maintain the eligible project for its useful life, if applicable, and to repay the financial assistance;

(2) agree to operate and maintain the eligible project facility so that the project facility will function properly over its structural and material design life, if applicable;

(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 or other authorized representative, that the qualified borrower has or will acquire proper title, easements and rights of way to the property upon or through which the eligible project facility proposed for funding is to be constructed or extended;

(5) require the contractor of the eligible 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 of the eligible project;

(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 qualified borrowers 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. Notwithstanding any existing statute to the contrary, a qualified borrower 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 eligible project and pay over the debt service to the account of the eligible 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 state or 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, the 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 eligible project; or

(d) other revenue available to the qualified borrower;

(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 qualified borrower 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 qualified borrower to aid it with an eligible 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 the eligible project for which the loan was made and shall be repaid in full no later than thirty years after completion of the eligible project. 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 greater than one and eighty-two hundredths percent of the local authority's per capita income; and

(2) the local authority's per capita income is less than three-fourths of the statewide per capita 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 an eligible 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 qualified borrower on any eligible 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 qualified borrowers that employ or contract with a New Mexico licensed professional engineer to provide and be responsible for engineering services on the eligible project. Such services include 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 the costs of engineering 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 qualified borrower, the commission may enforce its rights by suit or mandamus or may utilize all other available remedies under state law."

## **Chapter 19 Section 6 Laws 2018**

SECTION 6. Section 74-6A-9 NMSA 1978 (being Laws 1991, Chapter 172, Section 7, as amended) is amended to read:

"74-6A-9. COMMISSION--POWERS.--

A. In administering the Wastewater Facility Construction Loan Act, the commission shall have the following powers, which may be implemented by the division, in addition to those specified in the Water Quality Act:

(1) to provide financial assistance to qualified borrowers to finance all or part of an eligible project, including all forms of assistance for which the fund may be used pursuant to the Wastewater Facility Construction Loan Act;

(2) to adopt resolutions recommending that the board issue bonds or refunding bonds pursuant to the provisions of the Wastewater Facility Construction Loan Act;

(3) to execute agreements concerning state contributions to the fund made pursuant to the Clean Water Act, including obligating the commission to pay a portion of the estimated reasonable cost of an eligible project of a local authority as may be required to meet the water quality goals of the Clean Water Act and the state;

(4) to foreclose upon, attach or condemn any eligible project facility, property or interest in the project pledged, mortgaged or otherwise available as security for a project financed in whole or in part pursuant to the Wastewater Facility Construction Loan Act in the event of a default by a qualified borrower;

(5) to acquire and hold title to or leasehold interest in real and personal property and to sell, convey or lease that property for the purpose of satisfying a default or enforcing the provisions of a loan agreement;

(6) through its agent the division, to manage the fund, to grant and administer financial assistance to qualified borrowers and to apply for and accept grants, including capitalization grant awards made to the state in accordance with the Clean Water Act and the Wastewater Facility Construction Loan Act;

(7) to appoint and employ attorneys, financial advisors, underwriters and other experts and agents and employees as the business of the commission may require;

(8) to sue or be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction over the subject matter and the parties to the matter;

(9) to collect application, origination and administrative fees from qualified borrowers, the total of which for any loan shall not exceed four percent of the value of the loan requested or authorized;

(10) to adopt regulations necessary and appropriate to implement the provisions of the Wastewater Facility Construction Loan Act; and

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

B. Specific powers enumerated in this section shall not limit any power necessary or appropriate to carry out the purposes and intent of the Wastewater Facility Construction Loan Act.

C. The commission shall use accounting, audit and fiscal procedures conforming to generally accepted government accounting standards and shall otherwise prepare audits and budgets in accordance with state law. The fiscal year of the commission shall coincide with the fiscal year of the state.

D. The commission shall deliver an annual report during the first week of each regular session of the legislature on the status of the wastewater facility construction loan program and the fund to the governor and legislature."

## **Chapter 19 Section 7 Laws 2018**

SECTION 7. Section 74-6A-12 NMSA 1978 (being Laws 1991, Chapter 172, Section 10, as amended) is amended to read:

"74-6A-12. COMMISSION BONDS.--

A. The board, upon recommendation from the commission, may issue and sell bonds or other obligations recommended by the commission to provide funds for any purpose enumerated in the Wastewater Facility Construction Loan Act or for payment of obligations incurred or temporary loans made to accomplish any purpose of that act. As prescribed in the recommending resolution, bonds may be issued in one or more series; shall bear prescribed dates; shall be in the form provided in the Supplemental Public Securities Act; shall be issued in prescribed denominations; shall have terms and maturities that do not exceed twenty-five years from the date of issue of

each series; shall bear interest at prescribed rates; shall be payable and evidenced in the manner and times as set by the board; may be redeemed with or without premiums prior to maturity; may be ranked or assigned priority status; and may contain provisions not inconsistent with this subsection.

B. As security for the payment of the principal and interest on bonds recommended by the commission and issued by the board, the commission is authorized to pledge, transfer and assign after consultation with the board:

(1) any obligations of each qualified borrower, payable to the commission;

(2) the security for the qualified borrower obligations;

(3) any grant, subsidy or contribution from the United States or any of its agencies or instrumentalities; or

(4) any income, revenues, funds or other money of the commission from any other source appropriated or authorized for use for the purpose of implementing the provisions of the Wastewater Facility Construction Loan Act.

C. The bonds and other obligations recommended by the commission and issued by the board may be sold at any time the commission and the board agree upon. The bonds may be sold at private or public sale at prices as provided in the Public Securities Act and in a manner agreed upon by the board and the commission. The commission may apply the proceeds of the sale of the bonds it recommends that have been issued by the board to:

(1) the purposes of the Wastewater Facility Construction Loan Act or the purposes for which the fund may be used;

(2) the payment of interest on bonds recommended by the commission and issued by the board for a period not to exceed three years from the date of issuance of the bonds; and

(3) the payment of all expenses, including publication and printing charges, attorney fees, financial advisory and underwriter fees, and premiums or commissions that the commission or the board determines are necessary or advantageous in connection with the recommendation, advertisement, sale, creation and issuance of commission-recommended obligations.

The board retains the power to fix the date of sale of the bonds and to take all actions necessary to sell and deliver the bonds.

D. In anticipation of the issuance of bonds, the board or the commission may borrow such sums as may be needed for any of the purposes enumerated in

Subsection C of this section, obligate itself by certificate or promissory note, bearing interest at a rate to be specified by the commission and maturing within fifteen months from the date of the certificate or promissory note. The certificates or promissory notes shall be payable solely from the proceeds of the bonds recommended by the commission and issued by the board and from the funds from which commission-recommended bonds are payable. In the event that commission funds are not available for a loan for an eligible project when application is made, in order to accelerate the completion of any eligible project, the local authority may, with the approval of the commission, obligate such local authority to provide local funds to pay that portion of the cost of the eligible project that the commission agrees to make available by loan, and the commission may refund the amount expended on its behalf by the local authority.

E. The commission may recommend that the board issue and sell refunding bonds for the purpose of paying, defeasing or refunding the principal of, interest on and any redemption premiums on any matured or unmatured outstanding bonds recommended by the commission and issued by the board or any matured or unmatured bonds of the state issued to finance eligible projects constructed pursuant to the Clean Water Act grant program. Refunding bonds issued by the board pursuant to a recommendation by the commission shall be subject to the provisions of the Wastewater Facility Construction Loan Act in the same manner and to the same extent as other bonds issued pursuant to that act. The holders of refunding bonds shall be subrogated and entitled to all priorities, rights and pledges to which the bonds refunded thereby were entitled.

F. Except as otherwise provided in the Wastewater Facility Construction Loan Act, the proceeds of refunding bonds shall be immediately applied to the retirement of the bonds to be refunded or be placed in escrow or trust in one or more trust banks within or without the state to be applied to the payment of the refunded bonds or the refunding bonds, or both, in such priority and in the manner that the commission and the board may determine.

G. The incidental costs of refunding bonds may be paid by the purchaser of the refunding bonds or be defrayed from other available revenues of the commission, from the proceeds of the refunding bonds, from the interest or other yield derived from the investment of any refunding bond proceeds or other money in escrow or trust, from any other sources legally available for that purpose or from any combination of sources as the commission may determine.

H. Any accrued interest and any premium appertaining to a sale of refunding bonds may be applied to the payment of the interest or the principal of the bonds, or to both interest and principal, may be deposited in the account or in the fund and expended solely for the purposes of this subsection, may be used to refund bonds by deposit in escrow, trust or otherwise or may be used to defray any incidental costs appertaining to the refunding or any combination thereof, as the commission may determine.



I. An escrow or trust shall be limited to proceeds of refunding bonds.

J. A trust bank accounting for federal securities and other securities issued by the federal government in escrow or trust may place those securities for safekeeping wholly or in part in one or more trust banks within or without the state. Proceeds in escrow or trust may be invested or reinvested in federal securities and, in the case of an escrow or trust for the refunding of outstanding bonds or securities, in other securities issued by the federal government if the recommending and issuing resolutions expressly permit the investment or reinvestment in securities issued by the federal government other than federal securities.

K. A trust bank shall continuously secure, by a pledge of federal securities in an amount at all times at least equal to the total uninvested amount of the money, any money placed in escrow or trust in that trust bank, or by that trust bank in one or more trust banks within or without the state, and not invested or reinvested in federal securities and other securities issued by the federal government.

L. Proceeds and investments in escrow or trust, together with interest or gain to be derived from that investment, shall be in an amount at all times sufficient to pay principal, interest, prior redemption premiums due, charges of the escrow agent or trustee and other incidental expenses, except to the extent otherwise provided for, as the obligations become due at their respective maturities or due at designated prior redemption dates in connection with which the commission has exercised or is obligated to exercise a prior redemption option.

M. The computations made in determining sufficiency shall be verified by a certified public accountant.

N. A purchaser of a refunding bond issued pursuant to this section shall not be responsible for the application of the proceeds by the commission or any of the officers, agents or employees of the commission.

O. The state treasurer may invest any idle or surplus money of the state in bonds recommended by the commission and issued by the board. The governing body of any public entity in the state may invest any idle or surplus money held in its treasury in bonds recommended by the commission and issued by the board. Bonds recommended by the commission and issued by the board shall be legal investments for executors, administrators, trustees and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority, and for savings banks and insurance companies organized under the laws of the state.

P. Bonds or other obligations recommended by the commission and issued by the board and the interest applicable thereto and the income therefrom and all projects or parts thereof and all assets of the commission shall be exempt from taxation in the state.

Q. Bonds may be issued under the provisions of the Wastewater Facility Construction Loan Act only with the approval of the commission and the board pursuant to authority provided in that act.

R. Commission members or employees or board members or employees and any person executing bonds issued pursuant to the Wastewater Facility Construction Loan Act shall not be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

S. All bonds recommended by the commission and issued by the board, while registered, are declared and shall be construed to be negotiable instruments.

T. All bonds, notes and certificates recommended by the commission and issued by the board shall be special obligations of the board, payable solely from the revenue, income, fees or charges that may, pursuant to the provisions of the Wastewater Facility Construction Loan Act, be pledged to the payment of such obligations, and the bonds, notes or certificates shall not create an obligation, debt or liability of the state. No breach of any pledge, obligation or agreement of the commission shall impose a pecuniary liability upon the state or a charge upon its general credit or taxing power.

U. Any recommending or issuing resolution shall provide that each bond recommended or authorized shall recite that it is issued by the board under recommendation of the commission. The recital shall clearly state that the bonds are in full compliance with all of the provisions of the Wastewater Facility Construction Loan Act, and all bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value."

## **Chapter 19 Section 8 Laws 2018**

SECTION 8. Section 74-6A-14 NMSA 1978 (being Laws 1991, Chapter 172, Section 12) is amended to read:

"74-6A-14. VALIDATION.--All outstanding securities of the state and of all qualified borrowers, all loan or other agreements entered into between the state or the division and any qualified borrower, all regulations promulgated by the commission and all acts and proceedings taken by or on behalf of the state or any qualified borrower with respect to the financing of eligible projects are validated, ratified, approved and confirmed. To the extent necessary to carry out its purposes, the commission shall treat any bonds, obligations or agreements of the state or the division that were entered into prior to April 4, 1991 for the purpose of effecting the provisions of the Wastewater Facility Construction Loan Act or the Clean Water Act as if such bonds, obligations or agreements were those recommended by the commission and issued by the board."

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House Bill 66, aa

Approved February 28, 2018

## **LAWS 2018, CHAPTER 20**

AN ACT

RELATING TO THE NEW MEXICO MILITARY INSTITUTE; CREATING THE LUCIANO "LUCKY" VARELA OPPORTUNITY SCHOLARSHIP; CREATING THE LUCIANO "LUCKY" VARELA OPPORTUNITY SCHOLARSHIP FUND; ALLOWING THE TRANSFER OF FUNDS; MAKING AN APPROPRIATION.

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

### **Chapter 20 Section 1 Laws 2018**

SECTION 1. A new section of Chapter 21, Article 12 NMSA 1978 is enacted to read:

"LUCIANO "LUCKY" VARELA OPPORTUNITY SCHOLARSHIP CREATED--PURPOSE.--The Luciano "Lucky" Varela opportunity scholarship is created at the New Mexico military institute. The purpose of the scholarship is to increase the number of New Mexico high school students attending the New Mexico military institute who meet need-based requirements and who might not otherwise have the opportunity to participate in a military education and environment."

### **Chapter 20 Section 2 Laws 2018**

SECTION 2. A new section of Chapter 21, Article 12 NMSA 1978 is enacted to read:

"PROGRAM ADMINISTRATION--CRITERIA.--

A. The Luciano "Lucky" Varela opportunity scholarship shall be administered by the board of regents of the New Mexico military institute. The board of regents shall annually establish a number of Luciano "Lucky" Varela opportunity scholarships available to New Mexico high school students who meet need-based requirements.

B. Scholarships shall be awarded to qualifying New Mexico residents for a term not to exceed four years.

C. The board of regents of the New Mexico military institute shall establish criteria based on need, up to the total cost of attendance, in accordance with New Mexico military institute admission requirements for New Mexico high school residents."

## **Chapter 20 Section 3 Laws 2018**

SECTION 3. A new section of Chapter 21, Article 12 NMSA 1978 is enacted to read:

"LUCIANO "LUCKY" VARELA OPPORTUNITY SCHOLARSHIP FUND.--

A. Subject to available funding, the "Luciano "Lucky" Varela opportunity scholarship fund" is created. Money appropriated to the fund or accruing to it through gifts, grants or bequests shall not be transferred to another fund. The fund shall not revert at the end of a fiscal year. Any interest earned from investment of the fund shall be credited to the Luciano "Lucky" Varela opportunity scholarship fund for the purpose of implementing the Luciano "Lucky" Varela opportunity scholarship. Money in the fund is appropriated to the board of regents of the New Mexico military institute.

B. The board of regents of the New Mexico military institute may invest and reinvest the Luciano "Lucky" Varela opportunity scholarship fund in accordance with state investment council policy."

## **Chapter 20 Section 4 Laws 2018**

SECTION 4. A new section of Chapter 21, Article 12 NMSA 1978 is enacted to read:

"NEW MEXICO MILITARY INSTITUTE--TRANSFER OF BUDGET

BALANCES.--With the approval of the higher education department, the board of regents of the New Mexico military institute may, each fiscal year, transfer up to five hundred thousand dollars (\$500,000) of the institute's budget balances, including existing scholarship endowments, to the Luciano "Lucky" Varela opportunity scholarship fund established to implement the Luciano "Lucky" Varela opportunity scholarship."

## **Chapter 20 Section 5 Laws 2018**

SECTION 5. Section 21-12-13 NMSA 1978 (being Laws 1990, Chapter 109, Section 1, as amended) is amended to read:

"21-12-13. FUND CREATED.--The "legislative scholarship fund" is created. No money appropriated to the legislative scholarship fund or accruing to it through gifts, grants or bequests shall be transferred to another fund; provided that up to five hundred thousand dollars (\$500,000) may be transferred annually to the Luciano "Lucky" Varela opportunity scholarship fund. The legislative scholarship fund shall not revert at the end

of any fiscal year. Any interest earned from investment of the legislative scholarship fund shall be credited to the legislative scholarship fund for the purpose of implementing the General Richard T. Knowles legislative scholarship program. Money in the legislative scholarship fund is appropriated to the New Mexico military institute."

## **Chapter 20 Section 6 Laws 2018**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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HEC/House Bill 68, w/cc

Approved February 28, 2018

## **LAWS 2018, CHAPTER 21**

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING.

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

## **Chapter 21 Section 1 Laws 2018**

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 2019 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 21 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 93

Approved February 28, 2018

# **LAWS 2018, CHAPTER 22**

## **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 22 Section 1 Laws 2018**

SECTION 1. AUTHORIZATION OF PROJECTS.--Pursuant to Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund for public projects as defined in Section 6-21-3 NMSA 1978. Pursuant to Section 6-21-6 NMSA 1978, loans of 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 Agua Fria mutual domestic water consumer's association in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

2. the Albuquerque-Bernalillo county water utility authority in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

3. the city of Albuquerque in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, rail spur, special assessment district and solid waste projects;

4. the Alto Lakes water and sanitation district in Lincoln county for building, equipment, infrastructure, debt refinance, 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, debt refinance, 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 refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

7. the Anthony charter school in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

8. 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;

9. the ASK academy in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

10. the city of Aztec in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

11. the town of Bernalillo in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

12. the city of Bloomfield in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

13. the village of Capitan in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

14. the Carrizozo municipal school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

15. the Cibola general hospital in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

16. the Cimarron municipal school district in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

17. the Cottonwood Classical preparatory school in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

18. the Cottonwood Valley charter school in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

19. the Cuba soil and water conservation district in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

20. De Baca county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

21. the Des Moines municipal school district in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

22. the Dexter consolidated school district in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

23. the East Mountain charter high school in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

24. the East Tarrant soil and water conservation district in Tarrant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

25. the eastern plains council of governments in Curry, De Baca, Guadalupe, Harding, Quay and Roosevelt counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

26. the eastern Sandoval county arroyo flood control authority in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

27. the town of Edgewood in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

28. the Elephant Butte irrigation district in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;



29. the Estancia Moriarty Willard gas association in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

30. the Estancia municipal school district in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

31. the Estancia Valley Classical academy in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

32. the Estancia Valley solid waste authority in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

33. the city of Eunice in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

34. the village of Folsom in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

35. the Grants-Cibola county school district in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

36. the greater Chimayo mutual domestic water consumers association in Rio Arriba and Santa Fe counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

37. the village of Grenville in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

38. Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

39. the Hagerman municipal school district in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

40. Harding county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

41. the Hatch Valley public school district in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

42. the village of Hope in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

43. the Jemez Valley public school district in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

44. la academia de Esperanza in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

45. La Union mutual domestic sewer and water association in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

46. the Lake Arthur municipal school district in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

47. the Las Cruces public school district in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

48. the city of Las Cruces in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

49. the Las Vegas city public school district in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

50. the city of Las Vegas in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

51. Los Alamos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, public improvement district, special assessment district and solid waste projects;

52. the Los Alamos public school district in Los Alamos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

53. the Los Lunas public school district in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

54. the Los Puentes charter school in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

55. the Lower Rio Grande public water works authority in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

56. Luna community college in Guadalupe and San Miguel counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

57. the Maxwell municipal school district in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

58. the Media Arts Collaborative charter school in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

59. the Middle Rio Grande conservancy district in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

60. the mid-region council of governments in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, rail spur and solid waste projects;

61. the village of Milan in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

62. the Monte del Sol charter school in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

63. Mora county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

64. the Mora independent school district in Mora county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, public improvement district, special assessment district and solid waste projects;

65. the Mosquero municipal school district in Harding county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

66. the village of Mosquero in Harding county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

67. the Nambe Pueblo development corporation in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

68. the Navajo Nation in San Juan and McKinley counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

69. the board of regents of New Mexico highlands university in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

70. the board of regents of the New Mexico school for the blind and visually impaired in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

71. the Nor-Lea hospital district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

72. the north central New Mexico economic development district in Colfax, Mora, San Miguel, Santa Fe and Taos counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

73. the north central regional transit district in Rio Arriba and Los Alamos counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, railroad infrastructure and solid waste projects;

74. the northwest New Mexico regional solid waste authority in Cibola and McKinley counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

75. Ohkay Owingeh in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

76. the village of Pecos in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

77. the Penasco independent school district in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

78. the city of Portales in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

79. the Public academy for Performing Arts in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

80. the Pueblo of Isleta in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

81. the Pueblo of Jemez in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

82. the Pueblo of Nambe in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

83. the Pueblo of Pojoaque in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

84. the Pueblo of San Ildefonso in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

85. the Pueblo of Santo Domingo in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

86. the Pueblo of Taos in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

87. the Pueblo of Zia in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

88. the Questa independent school district in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

89. the city of Raton in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

90. the Roy municipal school district in Harding county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

91. the village of Roy in Harding county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

92. the governing board of San Juan college in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

93. the San Juan regional medical center in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

94. the San Juan soil and water conservation district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

95. San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

96. the village of San Ysidro in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

97. the Santa Ana hospitality corporation, a wholly owned enterprise of the Pueblo of Santa Ana, in Sandoval county for building, equipment, infrastructure, debt

refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

98. the governing board of Santa Fe community college in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

99. the Santa Rosa consolidated school district in Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

100. the Sierra Vista hospital in Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

101. the south central solid waste authority in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

102. the South Valley academy in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

103. the southern Sandoval county arroyo flood control authority in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

104. the spaceport authority in Sierra and Dona Ana counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

105. the Springer municipal school district in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

106. the village of Taos Ski Valley in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

107. the 21st Century public academy in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

108. the Vaughn municipal school district in Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

109. the Wagon Mound public school district in Mora county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

110. the board of regents of western New Mexico university in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects; and

111. the Zuni public school district in McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects.

## **Chapter 22 Section 2 Laws 2018**

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 2021 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 22 Section 3 Laws 2018**

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

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House Bill 99, aa, w/ec

Approved February 28, 2018

# **LAWS 2018, CHAPTER 23**

AN ACT

RELATING TO CULTURAL AFFAIRS; PROVIDING AUTHORITY TO THE STATE LIBRARIAN AND TO THE STATE HISTORIC PRESERVATION OFFICER TO SOLICIT AND RECEIVE FUNDS OR PROPERTY TO SUPPORT THEIR PROGRAMS AND ACTIVITIES.

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

## **Chapter 23 Section 1 Laws 2018**



SECTION 1. Section 18-2-4 NMSA 1978 (being Laws 1961, Chapter 126, Section 4, as amended) is amended to read:

"18-2-4. DUTIES OF THE STATE LIBRARIAN.--

A. The state librarian shall:

- (1) administer the state library;
- (2) administer grants-in-aid and encourage local library service and generally promote an effective statewide library system;
- (3) make studies and surveys of public library needs;
- (4) supply advice and information to existing libraries and aid in the establishment of new libraries;
- (5) obtain each year, from all libraries in the state, reports showing the conditions, growth and development together with such other facts and statistics regarding them as are of public interest;
- (6) cooperate with other educational services and governmental agencies of the state and with library agencies of other states and with national library agencies;
- (7) cooperate with the administrative services division of the cultural affairs department in preparing the budget for the state library;
- (8) administer the library extension service;
- (9) make rules and regulations necessary to administer the library division as provided by law and to perform other duties as provided by law; and
- (10) establish and administer a library depository and distribution system for state documents and publications.

B. The state librarian may solicit and receive funds or property, including federal funds and public and private grants, for programs and activities administered by the state librarian."

## **Chapter 23 Section 2 Laws 2018**

SECTION 2. 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 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;

(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; and

(7) may solicit and receive funds or property, including federal funds and public and private grants, for programs and activities administered by the state historic preservation officer.

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."

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House Bill 117

Approved February 28, 2018

## **LAWS 2018, CHAPTER 24**

AN ACT

RELATING TO ENVIRONMENTAL IMPROVEMENT; PROHIBITING FALSE STATEMENTS TO THE DEPARTMENT OF ENVIRONMENT BY AN OWNER OR OPERATOR OF A PUBLIC WATER SYSTEM; PROVIDING CRIMINAL PENALTIES.

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

### **Chapter 24 Section 1 Laws 2018**

SECTION 1. A new section of the Environmental Improvement Act is enacted to read:

"FALSE STATEMENTS TO THE DEPARTMENT--PENALTIES.--

A. It is unlawful for an owner or operator of a public water system subject to the Environmental Improvement Act and applicable rules or an owner's or operator's agent to:

(1) knowingly make a false statement, representation, certification or omission of fact material to the protection of public health as related to a public water system in an application, record, report, plan or other document filed with or submitted to the department, or required by rule to be maintained by an owner or operator of a public water system;

(2) knowingly falsify, tamper with or render inaccurate any device, method or record to be relied upon by the department to monitor or track information related to a public water system;

(3) knowingly falsify or conceal a fact material to the protection of public health as related to a public water system; or

(4) make or use a document with the knowledge that the document contains false statements or representations material to the protection of public health as related to a public water system.

B. A person who violates or knowingly causes or allows another person to violate Subsection A of this section is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

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House Bill 142, aa

Approved February 28, 2018

## **LAWS 2018, CHAPTER 25**

AN ACT

RELATING TO TELECOMMUNICATIONS; CREATING THE LIBRARY BROADBAND INFRASTRUCTURE FUND.

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

### **Chapter 25 Section 1 Laws 2018**

#### SECTION 1. LIBRARY BROADBAND INFRASTRUCTURE FUND--CREATED.--

A. The "library broadband infrastructure fund" is created in the state treasury. The fund consists of money appropriated by the legislature, federal money granted to the state for the purposes of 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 department of information technology shall administer the fund, and money in the fund is subject to appropriation by the legislature to the department of information technology to provide:

(1) matching money for grants to bring broadband infrastructure to public, tribal and school libraries;

(2) support for grant application preparation and compliance; and

(3) planning and data acquisition services to support collaborative project implementation.

B. 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 information technology or the secretary's authorized representative.

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House Bill 207, aa

Approved February 28, 2018

## **LAWS 2018, CHAPTER 26**

### **AN ACT**

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; PROVIDING FOR REMEDIATION OF THE CARLSBAD BRINE WELL; AMENDING THE POWERS AND DUTIES OF THE CARLSBAD BRINE WELL REMEDIATION AUTHORITY; ADMINISTRATIVELY ATTACHING THAT AUTHORITY TO THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT; PROVIDING FOR AN EARLIER DELAYED REPEAL DATE; DECLARING AN EMERGENCY.

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

### **Chapter 26 Section 1 Laws 2018**

SECTION 1. Section 75-11-1 NMSA 1978 (being Laws 2017, Chapter 11, Section 1 and Laws 2017, Chapter 118, Section 1) is amended to read:

~~"75-11-1. CARLSBAD BRINE WELL REMEDIATION AUTHORITY--CREATED--MEMBERSHIP--POWERS AND DUTIES.--~~

A. The "Carlsbad brine well remediation authority" is created and is administratively attached to the energy, minerals and natural resources department.

B. The membership of the board of directors of the authority shall consist of the following eight members:

(1) the secretary of energy, minerals and natural resources or the secretary's designee, who shall serve as chair of the board;

(2) the chair of the Eddy county board of county commissioners or the chair's designee;

(3) the mayor of the city of Carlsbad or the mayor's designee;

(4) the secretary of environment or the secretary's designee;

- (5) the secretary of transportation or the secretary's designee;
- (6) the manager of the Carlsbad irrigation district or the manager's designee;
- (7) the state engineer or the state engineer's designee; and
- (8) the attorney general or the attorney general's designee.

C. The authority shall set policy and regulate, supervise and administer the remediation of the Carlsbad brine well.

D. The authority may:

- (1) promulgate rules to carry out the provisions of this section;
  - (2) make and execute all contracts and other instruments;
  - (3) contract with the municipality or county in fulfillment of its duties;
- and
- (4) acquire, maintain or contract for property.

E. On or before November 15 of each year, the authority shall report to the radioactive and hazardous materials interim committee and the legislative finance committee on the status of the remediation of the Carlsbad brine well and expenditures from the Carlsbad brine well remediation fund.

F. Nothing in this section shall be construed as a waiver or alteration of the immunity from liability granted pursuant to the Tort Claims Act or as a waiver of any other immunity or privilege under law.

G. For the purposes of this section:

- (1) "authority" means the Carlsbad brine well remediation authority;
- and
- (2) "Carlsbad brine well" means the brine well located at SW/4 of the SW/4 in Section 17, Township 22 South, Range 27 East, NMPM; Eddy County, New Mexico."

## **Chapter 26 Section 2 Laws 2018**

SECTION 2. Section 75-11-2 NMSA 1978 (being Laws 2017, Chapter 11, Section 2 and Laws 2017, Chapter 118, Section 2) is amended to read:

**"75-11-2. CARLSBAD BRINE WELL REMEDIATION FUND--CREATED--  
PURPOSE--CONDITIONS.--**

A. The "Carlsbad brine well remediation fund" is created in the state treasury. The energy, minerals and natural resources department shall administer the fund. The fund shall be used by the Carlsbad brine well remediation authority to the extent that revenues are available to remediate the Carlsbad brine well or to acquire property adjacent to the Carlsbad brine well as required for its remediation.

B. Money in the fund may consist of federal grants, appropriations, donations, earnings from investment of the fund and other revenue that from time to time may accrue to the fund from other sources for remediation of the Carlsbad brine well.

C. Money in the fund shall be subject to appropriation by the legislature and shall not revert at the end of any fiscal year.

D. 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 26 Section 3 Laws 2018**

SECTION 3. Section 75-11-3 NMSA 1978 (being Laws 2017, Chapter 11, Section 3 and Laws 2017, Chapter 118, Section 3) is amended to read:

"75-11-3. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The Carlsbad brine well remediation authority is terminated on July 1, 2025 pursuant to the Sunset Act. The authority shall continue to operate according to the provisions of Sections 75-11-1 and 75-11-2 NMSA 1978 until July 1, 2026. Effective July 1, 2026, Sections 75-11-1 and 75-11-2 NMSA 1978 are repealed."

**Chapter 26 Section 4 Laws 2018**

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

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HENRC/HRC/House Bill 319, aa, w/ec

Approved February 28, 2018

**LAWS 2018, CHAPTER 27**

## AN ACT

RELATING TO PUBLIC MONEY; CREATING THE GOVERNOR'S CONTINGENCY FUND IN THE STATE TREASURY; REQUIRING EXPENDITURES FROM THE FUND TO COMPLY WITH STATE LAW; REQUIRING ANNUAL AUDITS OF THE FUND; CLARIFYING USES OF THE FUND.

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

### **Chapter 27 Section 1 Laws 2018**

SECTION 1. GOVERNOR'S CONTINGENCY FUND--CREATED--PURPOSE--AUDITS.--The "governor's contingency fund" is created in the state treasury. The governor's office shall administer the fund, and money in the fund shall be expended by the governor's office to pay for expenses directly connected with obligations of the elected office of governor. Expenditures from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the governor or the governor's authorized representative. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall revert to the general fund. Money in the fund shall not be used to pay or supplement the salary of the governor or any state employee or as perquisites or allowances for state employees. The fund is subject to the provisions of the Audit Act, the Procurement Code, the Inspection of Public Records Act and all other applicable laws and rules. The governor shall provide monthly reports to the department of finance and administration and the legislative finance committee about expenditures from the fund, including an itemized list of expenditures and the balance remaining in the fund.

### **Chapter 27 Section 2 Laws 2018**

SECTION 2. Section 10-8-5 NMSA 1978 (being Laws 1978, Chapter 184, Section 4, as amended) is amended to read:

"10-8-5. RESTRICTIONS--RULES.--

A. The secretary may promulgate rules for state agencies and local public bodies for the purpose of carrying out the provisions of the Per Diem and Mileage Act. Public officials of public post-secondary educational institutions and employees of public post-secondary educational institutions shall be subject to the rules of their governing boards.

B. Public funds may be advanced to any public officer or employee before the travel occurs only with prior written approval of the secretary, the secretary's designee, the local public body or the governing board or its designee. This restriction shall not prohibit the use of authorized credit cards in connection with purchases necessary to the use of vehicles owned by the state, a local public body or a public post-secondary educational institution or for food, lodging or transportation as permitted



by the department of finance and administration or the governing board. Public funds shall be paid out under the Per Diem and Mileage Act only upon vouchers duly presented with any required receipts attached thereto. For employees authorized to receive public funds in advance of travel, payment shall be received only upon vouchers submitted with attached authorization for each travel period. For public officers or employees using authorized credit cards, vouchers with required receipts for each month's travel expenses shall be submitted as a condition to receiving authorization to use the credit card for the next month's travel. Travel expenses may also be advanced if the travel is to be performed under provisions of federal or private contracts and the funds used are not derived from taxes or revenues paid to the state or any of its political subdivisions.

C. The secretary may reduce the rates set for the per diem and mileage for any class of public officials and for employees of state agencies, except public officials of public post-secondary educational institutions, at any time the secretary deems it to be in the public interest, and such reduction shall not be construed to permit payment of any other compensation, perquisite or allowance. The secretary shall exercise this power of reduction in a reasonable manner and shall attempt to achieve a standard rate for all public officers and employees of the same classification. The secretary may, at the request of any state agency and for good cause shown, reduce the rates of per diem and mileage for that state agency. The governing body of any local public body may eliminate or may reduce the rates set for the per diem and mileage for all or any class of public officials and employees of the local public body at any time the local public body deems it to be in the public interest, and such reduction shall not be construed to permit payment of any other compensation, perquisite or allowance. The local public body shall exercise this power of reduction in a reasonable manner and shall attempt to achieve a standard rate for all public officers and employees of the same classification. The secretary may, in extraordinary circumstances and with the prior approval of the state board of finance in public meeting, allow actual expenses rather than the per diem rates set in the Per Diem and Mileage Act.

D. The governing board or its designee may reduce the rates set for the per diem and mileage for public officials of public post-secondary educational institutions and for employees of public post-secondary educational institutions at any time the governing board deems it to be in the public interest, and such reduction shall not be construed to permit payment of any other compensation, perquisite or allowance. The governing board shall exercise this power of reduction in a reasonable manner and shall attempt to achieve a standard rate for public officers and employees of public post-secondary educational institutions. The governing board may reduce the rates of per diem and mileage for its public post-secondary educational institution and may, in extraordinary circumstances and in public meeting, allow actual expenses rather than the per diem rates set in the Per Diem and Mileage Act.

E. No reimbursement for out-of-state travel shall be paid to any elected public officer, including any member of the legislature, if after the last day to do so that officer has not filed a declaration of candidacy for reelection to the public officer's

currently held office or has been defeated for reelection to the public officer's currently held office in a primary election or any general election.

F. Subsection E of this section does not apply to any elected public officer who is ineligible to serve another term after serving the public officer's term in office.

G. Subsection E of this section does not apply to legislators whose travel has been approved by a three-fourths' vote of the New Mexico legislative council at a regularly called meeting.

H. Any person who is not an employee, appointee or elected official of a county or municipality and who is reimbursed under the provisions of the Per Diem and Mileage Act in an amount that singly or in the aggregate exceeds one thousand five hundred dollars (\$1,500) in any one year shall not be entitled to further reimbursement under the provisions of that act until the person furnishes in writing to the person's department head or, in the case of a department head or board or commission member, to the governor or, in the case of a member of the legislature, to the New Mexico legislative council an itemized statement on each separate instance of travel covered within the reimbursement, the place to which traveled and the executive, judicial or legislative purpose served by the travel."

## **Chapter 27 Section 3 Laws 2018**

SECTION 3. APPLICABILITY.--The initial audit conducted pursuant to Section 1 of this act shall be only for expenditures occurring on or after January 1, 2019.

## **Chapter 27 Section 4 Laws 2018**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2019.

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Senate Bill 52, aa

Approved March 1, 2018

# **LAWS 2018, CHAPTER 28**

AN ACT

RELATING TO MOTOR VEHICLE DEALERS; ALPHABETIZING THE DEFINITIONS OF CHAPTER 57, ARTICLE 16 NMSA 1978 AND ADDING FOUR NEW DEFINITIONS; PROSCRIBING UNLAWFUL ACTS OF MANUFACTURERS AND DISTRIBUTORS; REQUIRING COMPENSATION FOR REPAIRS TO A VEHICLE SUBJECT TO

RECALL, A DO NOT DRIVE ORDER OR STOP SALE ORDER; REQUIRING A MANUFACTURER TO PROVIDE A FRANCHISE DEALER WITH THE PARTS NECESSARY TO REPAIR A USED MOTOR VEHICLE SUBJECT TO A DO NOT DRIVE ORDER OR STOP SALE ORDER; PROHIBITING THE DENIAL OF CLAIMS BASED ON TECHNICAL ERRORS; PRESCRIBING REMEDIES; DECLARING AN EMERGENCY.

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

## **Chapter 28 Section 1 Laws 2018**

SECTION 1. Section 57-16-3 NMSA 1978 (being Laws 1973, Chapter 6, Section 3, as amended by Laws 2010, Chapter 38, Section 1 and by Laws 2010, Chapter 40, Section 1) is amended to read:

"57-16-3. DEFINITIONS.--As used in Chapter 57, Article 16 NMSA 1978:

A. "current price" means an amount equal to the price listed in the manufacturer's or distributor's printed price list in effect when the franchise is terminated, less applicable trade and cash discounts;

B. "dealer cost" means an amount equal to the sum of the original invoice price that the dealer paid for inventory and the cost of the delivery of the inventory from the manufacturer or distributor to the dealer, less applicable discounts;

C. "designated family member" means a spouse, child, grandchild, parent, brother or sister of a deceased or incapacitated dealer who is entitled to inherit the dealer's ownership interest in the dealership under the terms of a will or the laws of intestate succession in this state. In the case of an incapacitated dealer, the term means the person appointed by a court as the legal representative of the dealer's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased dealer. However, the term shall be limited to mean only that individual designated by a dealer in a written document filed with the manufacturer, distributor or representative in the event that such a document has been filed;

D. "distributor" means any person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer;

E. "do not drive order" means a notice advising a motor vehicle dealer or an owner of a motor vehicle not to drive the vehicle until the vehicle has been repaired because the vehicle has a safety defect, fails to comply with a federal motor vehicle safety standard or fails to comply with a federal requirement;

F. "former franchisee":

(1) means a dealer that has entered into a franchise agreement with a manufacturer and that has:

(a) entered into a termination agreement or deferred termination agreement with the manufacturer related to the franchise; or

(b) has had the franchise canceled, terminated or otherwise ended; and

(2) includes the designated successor of the former franchisee in the event the former franchisee is deceased or disabled;

G. "franchise" means an oral or written arrangement for a definite or indefinite period in which a manufacturer, distributor or representative grants to a motor vehicle dealer a license to use a trade name, service mark or related characteristic and in which there is a community of interest in the marketing of motor vehicles or services related to marketing, service or repair of motor vehicles at wholesale, retail, leasing or otherwise;

H. "fraud" includes, in addition to its normal legal connotation, the following:

(1) a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact;

(2) a promise or representation not made honestly and in good faith; and

(3) an intentional failure to disclose a material fact;

I. "inventory" means new or unused motorcycles, motor vehicles, motorcycle attachments and motorcycle and motor vehicle repair parts that are provided by a manufacturer or distributor to a dealer under a franchise agreement and that are purchased within thirty-six months of the termination of the franchise or are listed in the manufacturer's or distributor's current sales manual or price list at the time that the franchise is terminated;

J. "manufacturer" means any person who manufactures or assembles new motor vehicles either within or outside of this state and may include a predecessor manufacturer or a successor manufacturer;

K. "motorcycle" means any motor vehicle used on or off a public highway that has an unladen weight of less than one thousand five hundred pounds;

L. "motor vehicle" means every self-propelled vehicle, having two or more wheels, by which a person or property may be transported on a public highway and includes recreational vehicles;

M. "motor vehicle dealer" or "dealer" means a person who sells or solicits or advertises the sale of new or used motor vehicles and is licensed as a dealer pursuant to the Motor Vehicle Code. "Motor vehicle dealer" or "dealer" shall not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(2) public officers while performing their duties as such officers;

(3) persons making casual sales of their own vehicles duly registered and licensed to them by the state; or

(4) finance companies, banks and other lending institutions covering sales of repossessed vehicles;

N. "person" means every natural person, partnership, corporation, association, trust, estate or any other legal entity;

O. "predecessor manufacturer" means a manufacturer that is acquired, succeeded by or assumed by a successor manufacturer;

P. "prospective purchaser" means a person who has a bona fide written agreement to purchase a franchise;

Q. "recall claim" includes a claim for reimbursement for the parts and labor required for a dealer to repair a motor vehicle subject to a do not drive order or stop sale order;

R. "recreational vehicle" means any motor vehicle with a camping body that either has its own motive power or is drawn by another vehicle;

S. "relevant market area" means an area of a size specified in this subsection around an existing motor vehicle dealer's place of business. The size of the area shall be the greater of the area of responsibility specified in the dealer's franchise or a circle with a center at the dealer's place of business and a radius of:

(1) seven miles, if the population of the county in which the dealership is located is two hundred fifty thousand or more;

(2) fifteen miles, if the population of the county in which the dealership is located is less than two hundred fifty thousand but is thirty-five thousand or more; or

(3) twenty miles in all other cases.

If the existing and proposed dealerships are in different counties, the lesser of the applicable mileage limitations shall be used. For purposes of this subsection, the population of any area shall be determined in accordance with the most recent decennial census or the most recent population update from the national planning data corporation or other similar recognized source, whichever is later;

T. "representative" means any person who is or acts as an agent, employee or representative of a manufacturer or distributor and who performs any duties in this state relating to promoting the distribution or sale of new or used motor vehicles or contacts dealers in this state on behalf of a manufacturer or distributor;

U. "sale" includes:

(1) the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation or mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein or of any franchise related thereto; and

(2) any option, subscription or other contract or solicitation looking to a sale or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto with, or as, a bonus on account of the sale of anything shall be deemed a sale of such motor vehicle or franchise;

V. "stop sale order" means a notice prohibiting a motor vehicle dealer from leasing or selling and delivering at wholesale or retail a used motor vehicle in the inventory of the dealer until the vehicle has been repaired because the vehicle has a safety defect, fails to comply with a federal motor vehicle safety standard or fails to comply with a federal requirement;

W. "successor manufacturer" means a motor vehicle manufacturer that, on or after January 1, 2010, acquires, succeeds to or assumes any part of the business of a predecessor manufacturer as the result of:

(1) a change in ownership, operation or control of the predecessor manufacturer;

(2) the termination, suspension or cessation of all or a part of the business operation of the predecessor manufacturer;

(3) the discontinuance of the sale of a product line; or

(4) a change in the distribution system by the predecessor manufacturer, whether through a change in distributor or the predecessor manufacturer's decision to cease conducting business through a distributor; and

X. "value of the used motor vehicle" means the average trade-in value indicated in an independent third party guide for a used motor vehicle of the same year, make and model."

## **Chapter 28 Section 2 Laws 2018**

SECTION 2. Section 57-16-5 NMSA 1978 (being Laws 1973, Chapter 6, Section 5, as amended) is amended to read:

"57-16-5. UNLAWFUL ACTS--MANUFACTURERS--DISTRIBUTORS--REPRESENTATIVES.--It is unlawful for a manufacturer, distributor or representative to:

A. coerce or attempt to coerce a dealer to order or accept delivery of a motor vehicle, appliances, equipment, parts or accessories therefor or any other commodity that the motor vehicle dealer has not voluntarily ordered;

B. coerce or attempt to coerce a dealer to order or accept delivery of a motor vehicle with special features, appliances, accessories or equipment not included in the list price of the motor vehicles as publicly advertised by the manufacturer;

C. coerce or attempt to coerce a dealer to order for any person any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever;

D. refuse to deliver, in reasonable quantities and within a reasonable time after receipt of dealer's order, to a motor vehicle dealer having a franchise or contractual arrangement for the retail sale of motor vehicles sold or distributed by the manufacturer, distributor or representative, those motor vehicles, parts or accessories covered by the franchise or contract specifically publicly advertised by the manufacturer, distributor or representative to be available for immediate delivery; provided, however, the failure to deliver a motor vehicle, parts or accessories shall not be considered a violation of Chapter 57, Article 16 NMSA 1978 if the failure is due to an act of God, work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer, distributor or representative or an agent thereof has no control;

E. coerce or attempt to coerce a motor vehicle dealer to enter into an agreement with the manufacturer, distributor or representative or to do any other act prejudicial to the dealer by threatening to cancel a franchise or a contractual agreement existing between the manufacturer, distributor or representative and the dealer; provided, however, that notice in good faith to a motor vehicle dealer of the dealer's violation of the terms or provisions of the franchise or contractual agreement does not constitute a violation of Chapter 57, Article 16 NMSA 1978;

F. terminate or cancel the franchise or selling agreement of a dealer without due cause. "Due cause" means a material breach by a dealer, due to matters within the dealer's control, of a lawful provision of a franchise or selling agreement. As used in this subsection, "material breach" means a contract violation that is substantial and significant. In determining whether due cause exists under this subsection, the court shall take into consideration only the dealer's sales in relation to the business available to the dealer; the dealer's investment and obligations; injury to the public welfare; the adequacy of the dealer's sales and service facilities, equipment and parts; the qualifications of the management, sales and service personnel to provide the consumer with reasonably good service and care of new motor vehicles; the dealer's failure to comply with the requirements of the franchise; and the harm to the manufacturer or distributor. The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation regardless of the terms or provisions of the franchise or selling agreement. The manufacturer, distributor or representative shall notify a motor vehicle dealer in writing by registered mail of the termination or cancellation of the franchise or selling agreement of the dealer at least sixty days before the effective date thereof, stating the specific grounds for termination or cancellation; and the manufacturer, distributor or representative shall notify a motor vehicle dealer in writing by registered mail at least sixty days before the contractual term of the dealer's franchise or selling agreement expires that it will not be renewed, stating the specific grounds for nonrenewal in those cases where there is no intention to renew, and in no event shall the contractual term of a franchise or selling agreement expire without the written consent of the motor vehicle dealer involved prior to the expiration of at least sixty days following the written notice. During the sixty-day period, either party may in appropriate circumstances petition a district court to modify the sixty-day stay or to extend it pending a final determination of proceedings on the merits. The court may grant preliminary and final injunctive relief;

G. use false, deceptive or misleading advertising in connection with the manufacturer's, distributor's or representative's business;

H. offer to sell or to sell a motor vehicle to a motor vehicle dealer in this or any other state of the United States at a lower actual price than the actual price offered to any other motor vehicle dealer in this state for the same model vehicle similarly equipped or to utilize devices, including sales promotion plans or programs that result in a lesser actual price; provided, however, the provisions of this subsection do not apply to sales to a motor vehicle dealer for resale to a unit of the United States government, the state or its political subdivisions; and provided, further, the provisions of this subsection do not apply to sales to a motor vehicle dealer of a motor vehicle ultimately sold, donated or used by the dealer in a driver education program; and provided, further, that the provisions of this subsection do not apply if a manufacturer, distributor or representative offers to sell or sells new motor vehicles to all motor vehicle dealers at an equal price. As used in this section, "actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, distributor or representative, whether paid to the dealer or the ultimate purchaser of the vehicle. This provision does not apply to sales by the manufacturer, distributor or representatives to the United



States government or its agencies. The provisions of this subsection dealing with vehicle prices in another state and defining actual price do not apply to a manufacturer or distributor if all of the manufacturer's or distributor's dealers within fifty miles of a neighboring state are given all cash or credit incentives available in the neighboring state, whether the incentives are offered by the manufacturer or distributor or a finance subsidiary of either, affecting the price or financing terms of a vehicle;

I. willfully discriminate, either directly or indirectly, in price between different purchasers of a commodity of like grade or quality where the effect of the discrimination may be to lessen substantially competition or tend to create a monopoly or to injure or destroy the business of a competitor;

J. offer to sell or to sell parts or accessories to a motor vehicle dealer for use in the dealer's own business for the purpose of repairing or replacing the same or a comparable part or accessory at a lower actual price than the actual price charged to any other motor vehicle dealer for similar parts or accessories for use in the dealer's own business; provided, however, in those cases where motor vehicle dealers have a franchise to operate and serve as wholesalers of parts and accessories to retail outlets or other dealers, whether or not the dealer is regularly designated as a wholesaler, nothing in this section prevents a manufacturer, distributor or representative from selling to the motor vehicle dealer who operates and serves as a wholesaler of parts and accessories such parts and accessories as may be ordered by the motor vehicle dealer for resale to retail outlets at a lower actual price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories;

K. prevent or attempt to prevent by contract or otherwise a motor vehicle dealer from changing the capital structure of the dealer's dealership or the means by or through which the dealer finances the operation of the dealership, if the dealer at all times meets any reasonable capital standards agreed to between the dealer and the manufacturer, distributor or representative, and if the change by the dealer does not result in a change in the executive management control of the dealership;

L. prevent or attempt to prevent by contract or otherwise a motor vehicle dealer or an officer, partner or stockholder of a motor vehicle dealer from selling or transferring a part of the interest of any of them to any other person or party; provided, however, that no dealer, officer, partner or stockholder shall have the right to sell, transfer or assign the franchise or power of management or control thereunder without the consent of the manufacturer, distributor or representative except that the manufacturer, distributor or representative shall not withhold consent to the sale, transfer or assignment of the franchise to a qualified buyer capable of being licensed in New Mexico and who meets the manufacturer's or distributor's uniformly applied requirement for appointment as a dealer. Uniform application shall not prevent the application of a separate standard of consent for sale, transfer or assignment to minority or women dealer candidates, and shall not require the application of an identical standard to all persons in all situations. The requirement of uniform application shall be met if the manufacturer applies the same set of standards, which takes into account

business performance and experience, financial qualifications, facility requirements and other relevant characteristics; provided that, if two dealers, persons or situations are identical, given the characteristics considered in the standards, the two dealers, persons or situations shall be treated identically, except as provided in this subsection. Upon request, a manufacturer or distributor shall provide its dealer with a copy of the standards that are normally relied upon by the manufacturer or distributor to evaluate a proposed sale, transfer or assignment. A manufacturer, distributor or representative shall send a letter by certified mail approving or withholding consent within sixty calendar days of receiving the completed application forms and related information requested by a manufacturer or distributor as provided below. A manufacturer, distributor or representative shall send its existing motor vehicle dealer the necessary application forms and identify the related information required within twenty calendar days of receiving written notice from the existing motor vehicle dealer of the proposed sale or transfer. No manufacturer, distributor or representative shall require any information not requested in the twenty-day period, and submission of the information requested within that period together with a completed form of the application provided shall constitute a completed application form. A request for consent shall be deemed granted, and the manufacturer, distributor or representative shall be estopped from denying the consent, if the consent has not been expressly withheld during the applicable sixty-day period;

M. obtain money, goods, services, anything of value or any other benefit from any other person with whom the motor vehicle dealer does business on account of or in relation to the transactions between the dealer and the other person, unless the benefit is promptly accounted for and transmitted to the motor vehicle dealer;

N. require a motor vehicle dealer to assent to a release, assignment, novation, waiver or estoppel that would relieve a person from liability imposed by Chapter 57, Article 16 NMSA 1978;

O. require a motor vehicle dealer to provide installment financing with a specified financial institution;

P. establish an additional franchise, including any franchise for a warranty or service facility outside of the relevant market area of the dealer establishing the facility, but excluding the relocation of existing franchises, for the same line-make in a relevant market area where the same line-make is presently being served by an existing motor vehicle dealer if such addition would be inequitable to the existing dealer; provided, however, that the sales and service needs of the public shall be given due consideration in determining the equities of the existing dealer. The sole fact that the manufacturer, distributor or representative desires further penetration of the market is not grounds for establishing an additional franchise; provided, further, that the manufacturer, distributor or representative shall give a ninety-day written notice by registered mail to all same line-make dealers in a relevant market area of its intention to establish an additional franchise;

Q. offer to sell or lease or to sell or lease a new motor vehicle to a person, except a distributor, at a lower actual price therefor than the actual price offered and charged to a motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device that results in a lower actual price;

R. sell, lease or provide motorcycles, parts or accessories to a person not a dealer or distributor for the line-make sold, leased or provided. The provisions of this subsection do not apply to sales, leases or provisions of motor vehicles, parts or accessories by a manufacturer, distributor or representative to the United States government or its agencies or the state or its political subdivisions;

S. offer a finance program, either directly or through an affiliate, based on the physical location of the selling dealer or the residence of the buyer. The provisions of this subsection do not apply to a manufacturer or distributor that has no dealer within fifty miles of a state line or if all of the manufacturer's or distributor's dealers within that fifty miles are given all cash or credit incentives available in the neighboring state, whether the incentives are offered by the manufacturer or the distributor or a finance subsidiary of either, affecting the price or financing terms of a vehicle;

T. force a dealer to sell or relocate a franchise with another manufacturer located at the same physical location or consider the existence of another line-make at a dealership for product allocation, successorship, location approval and capitalization; provided that a manufacturer or distributor may require that the dealer:

- (1) meet the manufacturer's capitalization requirements;
- (2) meet the manufacturer's facilities requirements; and
- (3) not have committed fraudulent acts;

U. enforce a right of first refusal or option to purchase the dealership by a manufacturer or distributor or to require a dealer to grant a right or option to a manufacturer or distributor;

V. be licensed as a dealer or perform warranty or other service or own an interest, directly or indirectly, in a person licensed as a dealer or performing warranty or other service; provided that a manufacturer or distributor may own a person licensed as a dealer for a reasonable time in order to dispose of an interest acquired as a secured party or as part of a dealer development program;

W. fail to recognize and approve the transfer of a dealership to a person named as a successor, donee, beneficiary or devisee in a valid testamentary or trust instrument; provided that a manufacturer or distributor may impose standards or criteria used in a transfer;

X. impose capitalization requirements not necessary to assure that the dealer can meet its financial obligations;

Y. compel a dealer through a finance subsidiary of the manufacturer or distributor to agree to unreasonable operating requirements or directly or indirectly to terminate a dealer, except as allowed by Subsection F of this section, through the actions of a finance subsidiary of the manufacturer or distributor. This subsection shall not limit the right of a financing entity to engage in business practices in accordance with the usage of the trade in which it is engaged;

Z. require a dealer or the dealer's successor to:

(1) construct a new dealership, require the relocation of an existing dealership or substantially change, alter or remodel a dealer's facility except as necessary to comply with health or safety laws or to comply with technology requirements necessary to sell or service vehicles; or

(2) construct a new dealership, require relocation of an existing dealership or substantially change, alter or remodel an existing dealership before the tenth anniversary of the date that the construction or change, alteration or remodel of the dealership at that location was completed if the construction was in substantial compliance with standards or plans provided by a manufacturer, distributor or representative;

AA. unreasonably withhold approval for a dealer to purchase substantially similar goods or services related to the construction, alteration, remodel or renovation of a dealership facility from vendors of the dealer's choice. This subsection shall not be construed to allow a dealer or vendor to infringe upon or impair a manufacturer's trademark rights or to erect or maintain a sign that does not conform to the manufacturer's reasonable fabrication specifications and trademark usage guidelines;

BB. use an unreasonable, arbitrary or unfair sales or other performance standard in determining a franchise motor vehicle dealer's compliance with a franchise agreement. The manufacturer has the burden of proving the reasonableness of its performance standards;

CC. fail to compensate a motor vehicle dealer for labor and parts required for a dealer to perform necessary repairs on an affected new or used motor vehicle pursuant to a recall, do not drive order or stop sale order, if the dealer holds a franchise of the same line-make as the subject vehicle;

DD. fail to compensate a motor vehicle dealer as prescribed by Chapter 57, Article 16 NMSA 1978 for a delay in delivering parts or equipment needed to perform recall-related repairs on an affected used motor vehicle in the dealer's inventory that is subject to a do not drive order or stop sale order, if the dealer holds a franchise of the same line-make as the vehicle;

EE. subject to the manufacturer's audit rights provided in Section 57-16-7 NMSA 1978, reduce compensation to a motor vehicle dealer, process a charge back to a dealer, reduce the amount of compensation that the manufacturer otherwise owes to an individual dealer under an incentive program or remove an individual dealer from an incentive program solely because the motor vehicle dealer submitted a claim or received compensation for a claim. This subsection does not prohibit a manufacturer from modifying or discontinuing an incentive program prospectively or from making ordinary business decisions; or

FF. use data, calculations or statistical determinations of the sales performance of a motor vehicle dealer to take adverse action against the motor vehicle dealer for any period of time during which the dealer has at least five percent of its total new and used motor vehicle inventory subject to a stop sale order or do not drive order; provided that the motor vehicle dealer's performance, as reflected in the data, calculations or statistical determinations, is adversely affected by the stop sale order or do not drive order."

## **Chapter 28 Section 3 Laws 2018**

SECTION 3. Section 57-16-7 NMSA 1978 (being Laws 1973, Chapter 6, Section 7, as amended by Laws 2011, Chapter 111, Section 1 and by Laws 2011, Chapter 118, Section 1) is amended to read:

### **"57-16-7. WARRANTY AND RECALL CLAIMS--PAYMENT.--**

A. Each manufacturer shall specify in its franchise agreement, or in a separate written agreement, with each of its dealers licensed in this state, the dealer's obligation to perform warranty work or service on the manufacturer's products.

B. Each manufacturer shall provide each of its dealers with a schedule of compensation to be paid to the dealer for recall or warranty repairs, work or service, including parts, labor and diagnostic work, required of the dealer by the manufacturer in connection with the manufacturer's products. The schedule of compensation for a recall or warranty repair shall not be less than the rates charged by the dealer for similar service to retail customers for nonwarranty service and repairs.

C. The rates charged by the dealer for nonwarranty service or work for parts means the price paid by the dealer for those parts, including all shipping and other charges, increased by the franchisee's average percentage markup. A dealer shall establish and declare the dealer's average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission. A change in a dealer's established average percentage markup takes effect thirty days following the submission. A manufacturer shall not require a dealer to establish average percentage markup by another methodology. A manufacturer shall not require information that is

unduly burdensome or time-consuming to provide, including part-by-part or transaction-by-transaction calculations.

D. A manufacturer shall compensate a dealer for labor and diagnostic work for recall or warranty repairs at the rates charged by the dealer to its retail customers for such work. A dealer shall establish and declare the dealer's average customer pay labor rate by submitting to the manufacturer the lesser of one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders covering repairs made no more than one hundred eighty days before the submission.

E. If a manufacturer can demonstrate that the rates under Subsection C or D of this section were incorrectly calculated by a dealer or unreasonably exceed those of all other franchised motor vehicle dealers in the same relevant market area offering the same or a competitive motor vehicle line, the manufacturer is not required to honor the rate increase proposed by the dealer. If the manufacturer is not required to honor the rate increase proposed by the dealer, the dealer is entitled to resubmit a new proposed rate for labor and diagnostic work.

F. A dealer shall not be granted an increase in the average percentage markup or labor and diagnostic work rate more than twice in one calendar year.

G. All recall or warranty claims for parts and labor made by dealers under this section shall be submitted to the manufacturer within one year of the date the work was performed. All claims submitted must be paid by the manufacturer within thirty days following receipt, provided that the claim has been approved by the manufacturer. The manufacturer has the right to audit claims and to charge the dealer for any unsubstantiated, incorrect or false claims for a period of six months following payment. However, the manufacturer may audit and charge the dealer for any fraudulent claims during any period for which an action for fraud may be commenced under applicable state law.

H. All claims submitted by dealers on the forms and in the manner specified by the manufacturer shall be either approved or disapproved within thirty days following their receipt. The manufacturer shall notify the dealer in writing of any disapproved claim and shall set forth the reasons why the claim was not approved. Any claim not specifically disapproved in writing within thirty days following receipt is approved, and the manufacturer is required to pay that claim within thirty days of receipt of the claim.

I. A manufacturer may not recover its costs for compensating its dealers licensed in this state for a recall or warranty claim either by reduction in the amount due to the dealer or by separate charge, surcharge or other imposition.

J. A manufacturer, distributor or representative shall not deny a claim by a dealer for performing a covered warranty repair or required recall, do not drive order or

stop sale order repair on a motor vehicle if the dealer discovered the need for the repair during the course of a separate repair request by the customer; provided that the dealer provides the required documentation, which shall not be unreasonably burdensome, demonstrating the need for the repair.

K. The provisions of this section shall not apply to recreational travel trailers or to parts of systems, fixtures, appliances, furnishings, accessories and features of motor homes."

## **Chapter 28 Section 4 Laws 2018**

SECTION 4. A new section of Chapter 57, Article 16 NMSA 1978 is enacted to read:

"PROHIBITION ON DENIAL OF CLAIMS BASED ON TECHNICAL ERRORS.--A manufacturer, distributor or representative shall not charge back an element of a paid claim, customer or dealer incentive, recall claim or warranty claim based on a dealer's incidental failure to comply with a claim requirement or a clerical error or other technicality, as long as the dealer corrects the clerical error or other technicality according to licensee guidelines within ninety days of learning of the clerical error or other technicality and provides appropriate documentation to demonstrate the need for the repair. This section applies to a successor manufacturer or distributor."

## **Chapter 28 Section 5 Laws 2018**

SECTION 5. A new section of Chapter 57, Article 16 NMSA 1978 is enacted to read:

"USED VEHICLES--DO NOT DRIVE OR STOP SALE ORDERS--DUTY TO PROVIDE PARTS OR EQUIPMENT--COMPENSATION FOR DELAY.--

A. If a manufacturer, a distributor or the federal government issues a stop sale order or do not drive order on a used motor vehicle that is part of a franchise motor vehicle dealer's inventory, the manufacturer or distributor upon availability shall immediately provide to the dealer the part or equipment needed to make the vehicle comply with the motor vehicle standards or to correct the defect.

B. If a remedy or part necessary to repair a used motor vehicle subject to a stop sale order or do not drive order is not available within thirty days of the issuance of the order, upon request of a franchise motor vehicle dealer, the manufacturer shall compensate its franchise motor vehicle dealer for each affected used motor vehicle of the same line-make as new vehicles that the dealer is authorized to sell or service in the dealer's inventory at a prorated rate of at least one percent of the value of the used motor vehicle per month, commencing on the thirtieth day after the order was issued and ending on the earlier of the date that a remedy or all parts necessary to repair or service the affected used motor vehicle are made available to the dealer or the dealer

sells, trades or otherwise disposes of the affected used motor vehicle. Alternatively, a manufacturer may compensate a motor vehicle dealer under a recall compensation program if the motor vehicle dealer agrees to be compensated under the program. A manufacturer is not required to compensate a motor vehicle dealer for more than the total value of the used motor vehicle.

C. Compensation provided to a franchise motor vehicle dealer under Subsection B of this section is exclusive and shall not be combined with any other recall compensation remedy under state or federal law.

D. For the purposes of this section, a used motor vehicle is part of the franchise motor vehicle dealer's inventory if the used motor vehicle is held for sale and in the possession of the dealer on the date the do not drive order or stop sale order is issued or if the dealer obtains the used motor vehicle as a result of trade-in pursuant to the purchase of a new or used motor vehicle or a lease return contract after the date that the order is issued but before the remedy and all parts necessary to repair the used motor vehicle are made available to the dealer. The manufacturer may establish the method by which a dealer demonstrates that an affected motor vehicle is part of the dealer's inventory. The method may not be unreasonable, be unduly burdensome or require the dealer to provide information to the manufacturer that is not necessary to validate payment."

## **Chapter 28 Section 6 Laws 2018**

SECTION 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SCORC/Senate Bill 27, w/ec

Approved March 1, 2018

## **LAWS 2018, CHAPTER 29**

AN ACT

RELATING TO ELECTIONS; PROVIDING REQUIREMENTS FOR CONTRIBUTIONS MADE TO A CANDIDATE OR A POLITICAL COMMITTEE VIA THE INTERNET BY CREDIT OR DEBIT CARD.

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

## **Chapter 29 Section 1 Laws 2018**



SECTION 1. Section 1-19-34 NMSA 1978 (being Laws 1979, Chapter 360, Section 10, as amended) is amended to read:

"1-19-34. CANDIDATES--POLITICAL COMMITTEES--TREASURER--BANK ACCOUNT--ANONYMOUS CONTRIBUTIONS--CONTRIBUTIONS FROM SPECIAL EVENTS--CREDIT AND DEBIT CARD CONTRIBUTIONS.--

A. It is unlawful for the members of any political committee or any candidate to make any expenditure or solicit or accept any contribution for a political purpose unless:

(1) a treasurer has been appointed and is constantly maintained; provided, however, when a duly appointed treasurer is unable for any reason to continue as treasurer, the candidate or political committee shall appoint a successor; and provided further that a candidate may serve as the candidate's own treasurer;

(2) all disbursements of money and receipts of contributions are authorized by and through the candidate or treasurer;

(3) a separate bank account has been established and all receipts of money contributions and all expenditures of money are deposited in and disbursed from the one bank account maintained by the treasurer in the name of the candidate or political committee; provided that nothing in this section shall prohibit investments from the bank account to earn interest as long as the investments and earnings are fully reported. All disbursements except for disbursements made from a petty cash fund of one hundred dollars (\$100) or less shall be made in a form such that the date, amount and payee of the transaction are automatically recorded or by check made payable to the person or entity receiving the disbursement and not to "cash" or "bearer"; and

(4) the treasurer upon disbursing or receiving money or other things of value immediately enters and thereafter keeps a proper record preserved by the treasurer, including a full, true and itemized statement and account of each sum disbursed or received, the date of such disbursement or receipt, to whom disbursed or from whom received and the object or purpose for which it was disbursed or received.

B. No anonymous contributions may be accepted in excess of one hundred dollars (\$100). The aggregate amount of anonymous contributions received by a reporting individual during a primary or general election or a statewide special election shall not exceed two thousand dollars (\$2,000) for statewide races and five hundred dollars (\$500) for all other races.

C. Cash contributions received at special events that are unidentifiable as to specific contributor but identifiable as to the special event are not subject to the anonymous contribution limits provided for in this section so long as no single special event raises, after expenses, more than one thousand dollars (\$1,000) in such cash contributions. For those contributions, due diligence and best efforts shall be made to

disclose on a special prescribed form the sponsor, date, place, total amount received, expenses incurred, estimated number of persons in attendance and other identifiable factors that describe the special event. For purposes of this subsection, "special event" includes an event such as a barbecue or similar fundraiser where tickets costing fifteen dollars (\$15.00) or less are sold or an event such as a coffee, tea or similar reception.

D. Any contributions received pursuant to this section in excess of the limits established in Subsections B and C of this section shall be donated to the state general fund or an organization to which a federal income tax deduction would be available under Subparagraph (A) of Paragraph (1) of Subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended.

E. A candidate or political committee shall not accept a contribution made by a credit card or a debit card via the internet or where the card is not physically present unless, at the time the contribution is made, the contributor provides the card security code assigned to and printed or imprinted on the card and the billing address associated with the card."

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Senate Bill 50, aa

Approved March 1, 2018

## **LAWS 2018, CHAPTER 30**

### **AN ACT**

RELATING TO DOMESTIC VIOLENCE; ADDING DEFINITIONS OF "SUFFOCATION" AND "STRANGULATION" TO THE FAMILY VIOLENCE PROTECTION ACT, THE CRIMES AGAINST HOUSEHOLD MEMBERS ACT AND THE ABUSE AND NEGLECT ACT; CLARIFYING THAT THE CRIME OF AGGRAVATED BATTERY AGAINST A HOUSEHOLD MEMBER MAY BE COMMITTED BY SUFFOCATION OR STRANGULATION.

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

### **Chapter 30 Section 1 Laws 2018**

SECTION 1. Section 30-3-11 NMSA 1978 (being Laws 1995, Chapter 221, Section 2, as amended) is amended to read:

"30-3-11. DEFINITIONS.--As used in the Crimes Against Household Members Act:

A. "household member" means a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the purposes of the Crimes Against Household Members Act;

B. "continuing personal relationship" means a dating or intimate relationship;

C. "strangulation" means the unlawful touching or application of force to another person's neck or throat with intent to injure that person and in a manner whereby great bodily harm or death can be inflicted, the result of which impedes the person's normal breathing or blood circulation; and

D. "suffocation" means the unlawful touching or application of force that blocks the nose or mouth of another person with intent to injure that person and in a manner whereby great bodily harm or death can be inflicted, the result of which impedes the person's normal breathing or blood circulation."

## **Chapter 30 Section 2 Laws 2018**

SECTION 2. Section 30-3-16 NMSA 1978 (being Laws 1995, Chapter 221, Section 7, as amended) is amended to read:

"30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD MEMBER.--

A. Aggravated battery against a household member consists of the unlawful touching or application of force to the person of a household member with intent to injure that person or another.

B. Whoever commits aggravated battery against a household member is guilty of a misdemeanor if the aggravated battery against a household member is committed by inflicting an injury to that person that is not likely to cause death or great bodily harm, but that does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body.

C. Whoever commits aggravated battery against a household member is guilty of a third degree felony if the aggravated battery against a household member is committed:

(1) by inflicting great bodily harm;

(2) with a deadly weapon;

(3) by strangulation or suffocation; or

(4) in any manner whereby great bodily harm or death can be inflicted.

D. Upon conviction pursuant to Subsection B of this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.

E. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to the provisions of Subsection B of this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years."

### **Chapter 30 Section 3 Laws 2018**

SECTION 3. Section 32A-4-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 96, as amended) is amended to read:

"32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect Act:

A. "abandonment" includes instances when the parent, without justifiable cause:

(1) left the child without provision for the child's identification for a period of fourteen days; or

(2) left the child with others, including the other parent or an agency, without provision for support and without communication for a period of:

(a) three months if the child was under six years of age at the commencement of the three-month period; or

(b) six months if the child was over six years of age at the commencement of the six-month period;

B. "abused child" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

C. "aggravated circumstances" includes those circumstances in which the parent, guardian or custodian has:

(1) attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;

(2) attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;

(3) attempted, conspired to subject or has subjected the child to torture, chronic abuse or sexual abuse; or

(4) had parental rights over a sibling of the child terminated involuntarily;

D. "educational decision maker" means an individual appointed by the children's court to attend school meetings and to make decisions about the child's education that a parent could make under law, including decisions about the child's educational setting, and the development and implementation of an individual education plan for the child;

E. "fictive kin" means a person not related by birth, adoption or marriage with whom a child has an emotionally significant relationship;

F. "great bodily harm" means an injury to a person that creates a high probability of death, that causes serious disfigurement or that results in permanent or protracted loss or impairment of the function of a member or organ of the body;

G. "neglected child" means a child:

(1) who has been abandoned by the child's parent, guardian or custodian;

(2) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;

(3) who has been physically or sexually abused, when the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;

(4) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or

(5) who has been placed for care or adoption in violation of the law; provided that nothing in the Children's Code shall be construed to imply that a child who is being provided with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children's Code; and further provided that no child shall be denied the protection afforded to all children under the Children's Code;

H. "physical abuse" includes any case in which the child suffers strangulation or suffocation and any case in which the child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:

(1) there is not a justifiable explanation for the condition or death;

(2) the explanation given for the condition is at variance with the degree or nature of the condition;

(3) the explanation given for the death is at variance with the nature of the death; or

(4) circumstances indicate that the condition or death may not be the product of an accidental occurrence;

I. "relative" means a person related to another person by birth, adoption or marriage within the fifth degree of consanguinity;

J. "sexual abuse" includes criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law;

K. "sexual exploitation" includes:

(1) allowing, permitting or encouraging a child to engage in prostitution;

(2) allowing, permitting, encouraging or engaging a child in obscene or pornographic photographing; or

(3) filming or depicting a child for obscene or pornographic commercial purposes, as those acts are defined by state law;

L. "sibling" means a brother or sister having one or both parents in common by birth or adoption;

M. "strangulation" has the same meaning as set forth in Section 30-3-11 NMSA 1978;

N. "suffocation" has the same meaning as set forth in Section 30-3-11 NMSA 1978; and

O. "transition plan" means an individualized written plan for a child, based on the unique needs of the child, that outlines all appropriate services to be provided to the child to increase independent living skills. The plan shall also include responsibilities of the child, and any other party as appropriate, to enable the child to be self-sufficient upon emancipation."

## **Chapter 30 Section 4 Laws 2018**

SECTION 4. Section 40-13-2 NMSA 1978 (being Laws 1987, Chapter 286, Section 2, as amended) is amended to read:

"40-13-2. DEFINITIONS.--As used in the Family Violence Protection Act:

A. "continuing personal relationship" means a dating or intimate relationship;

B. "co-parents" means persons who have a child in common, regardless of whether they have been married or have lived together at any time;

C. "court" means the district court of the judicial district where an alleged victim of domestic abuse resides or is found;

D. "domestic abuse":

(1) means an incident of stalking or sexual assault whether committed by a household member or not;

(2) means an incident by a household member against another household member consisting of or resulting in:

- (a) physical harm;
- (b) severe emotional distress;
- (c) bodily injury or assault;
- (d) a threat causing imminent fear of bodily injury by any household member;
- (e) criminal trespass;
- (f) criminal damage to property;
- (g) repeatedly driving by a residence or work place;
- (h) telephone harassment;
- (i) harassment;
- (j) strangulation;
- (k) suffocation; or
- (l) harm or threatened harm to children as set forth in this paragraph; and

(3) does not mean the use of force in self-defense or the defense of another;

E. "household member" means a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for purposes of this section;

F. "mutual order of protection" means an order of protection that includes provisions that protect both parties;

G. "order of protection" means an injunction or a restraining or other court order granted for the protection of a victim of domestic abuse;

H. "protected party" means a person protected by an order of protection;



I. "restrained party" means a person who is restrained by an order of protection;

J. "strangulation" has the same meaning as set forth in Section 30-3-11 NMSA 1978; and

K. "suffocation" has the same meaning as set forth in Section 30-3-11 NMSA 1978."

## **Chapter 30 Section 5 Laws 2018**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 61, aa

Approved March 1, 2018

## **LAWS 2018, CHAPTER 31**

AN ACT

RELATING TO HORSE RACING; EXTENDING THE TERMINATION DATE OF THE STATE RACING COMMISSION.

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

## **Chapter 31 Section 1 Laws 2018**

SECTION 1. Section 60-1A-29 NMSA 1978 (being Laws 2007, Chapter 39, Section 29, as amended) is amended to read:

"60-1A-29. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The state racing commission is terminated on July 1, 2021 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of Chapter 60, Article 1A NMSA 1978 until July 1, 2022. Effective July 1, 2022, Chapter 60, Article 1A NMSA 1978 is repealed."

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Senate Bill 125, aa

Approved March 1, 2018

# **LAWS 2018, CHAPTER 32**

AN ACT

RELATED TO PUBLIC SERVICE LAW LOAN REPAYMENT; REMOVING THE EARNINGS CAP FOR ELIGIBILITY FOR CERTAIN LOAN REPAYMENT ASSISTANCE.

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

## **Chapter 32 Section 1 Laws 2018**

SECTION 1. Section 21-22F-5 NMSA 1978 (being Laws 2005, Chapter 83, Section 5, as amended) is amended to read:

"21-22F-5. LOAN REPAYMENT PROGRAM--PARTICIPANT ELIGIBILITY--AWARD CRITERIA.--

A. An applicant shall be licensed to practice in New Mexico as an attorney and shall declare an intent to practice as an attorney in public service employment.

B. Prior to submitting an application to the public service law loan repayment program, an applicant shall apply to all available legal education loan repayment programs offered by the applicant's law school for which the applicant qualifies.

C. Prior to receiving a loan repayment award, the applicant shall file with the department:

(1) a declaration of intent to practice as an attorney in public service employment;

(2) proof of prior application to all legal education loan repayment programs offered by the applicant's law school for which the applicant qualifies; and

(3) documentation that includes the applicant's total legal education debt, salary, any amounts received by the applicant from other law loan repayment programs and other sources of income deemed by the department as appropriate for consideration; provided that the applicant shall not be required to disclose amounts of income from military service.

D. Award criteria shall provide that:

(1) preference in making awards shall be to applicants who:

(a) have graduated from the university of New Mexico law school;

(b) have the greatest financial need based on legal education indebtedness and salary;

(c) work in public service employment that has the lowest salaries; and

(d) work in public service employment in underserved areas of New Mexico that are in greatest need of attorneys practicing in public service employment;

(2) an applicant's employment as an attorney in public service employment prior to participation in the public service law loan repayment program shall not count as time spent toward the minimum three-year period of service requirement pursuant to the contract between the participating attorney and the department acting on behalf of the state;

(3) award amounts are dependent upon the applicant's total legal education debt, salary and sources of income other than income from military service deemed by the department as appropriate for consideration;

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

(5) an award shall not exceed the total legal education debt of any participant;

(6) award amounts shall be reduced by the sum of the total award amounts received by the participant from other legal education loan repayment programs; and

(7) an award determination may be appealed to the secretary of higher education.

E. The following legal education debts are not eligible for repayment pursuant to the Public Service Law Loan Repayment Act:

(1) amounts incurred as a result of participation in state or law school loan-for-service programs or other state or law school programs whose purposes state that service be provided in exchange for financial assistance;

(2) scholarships that have a service component or obligation;

(3) personal loans from relatives or friends; and

(4) loans that exceed individual standard school expense levels."

## **Chapter 32 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 143

Approved March 1, 2018

## **LAWS 2018, CHAPTER 33**

AN ACT

RELATING TO CRIME VICTIMS REPARATIONS; EXPANDING THE TYPES OF CRIMES FOR WHICH CRIME VICTIM REPARATION MAY BE MADE UNDER THE CRIME VICTIMS REPARATION ACT.

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

## **Chapter 33 Section 1 Laws 2018**

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) failure to give information and render aid, as provided in Section 66-7-201 or 66-7-203 NMSA 1978;
- (12) homicide by vehicle or great bodily injury by vehicle, as provided in Section 66-8-101 NMSA 1978;
- (13) abandonment or abuse of a child;
- (14) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;
- (15) stalking;
- (16) human trafficking;
- (17) assault against a household member; and
- (18) battery against a household member.

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

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Senate Bill 188

Approved March 1, 2018

## **LAWS 2018, CHAPTER 34**

AN ACT

RELATING TO PUBLIC HEALTH; CLARIFYING THE DEFINITION OF "CRISIS TRIAGE CENTER"; DECLARING AN EMERGENCY.

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

**Chapter 34 Section 1 Laws 2018**

SECTION 1. Section 24-1-2 NMSA 1978 (being Laws 1973, Chapter 359, Section 2, as amended) is amended to read:

"24-1-2. DEFINITIONS.--As used in the Public Health Act:

A. "condition of public health importance" means an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community;

B. "crisis triage center" means a health facility that:

(1) is licensed by the department of health; and

(2) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization;

C. "department" means:

(1) the department of health; or

(2) 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;

D. "director" means the secretary;

E. "health care provider" means an individual licensed to provide health care in the ordinary course of business, except as otherwise defined in the Public Health Act;

F. "health facility" means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, crisis triage center, freestanding birth center, adult daycare facility, nursing home, intermediate care facility, assisted living 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;

G. "screening" means a preliminary procedure, including a test or examination, that:

(1) may require further investigation; and

(2) can identify individuals with unrecognized health risk factors or asymptomatic disease conditions in populations;

H. "secretary" means:

(1) the secretary of health; or

(2) 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

I. "test" means any diagnostic or investigative analysis or medical procedure that determines the presence of, absence of or exposure to a condition of public health importance or its precursor in an individual."

## **Chapter 34 Section 2 Laws 2018**

SECTION 2. Section 27-2-12.20 NMSA 1978 (being Laws 2015, Chapter 61, Section 2) is amended to read:

"27-2-12.20. 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; and

(2) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization."

## **Chapter 34 Section 3 Laws 2018**

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

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Senate Bill 220, aa, w/ec

Approved March 1, 2018

## **LAWS 2018, CHAPTER 35**

AN ACT

RELATING TO CORPORATIONS; CHANGING THE BIENNIAL REPORT DUE DATE FOR CERTAIN CORPORATIONS.

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

## **Chapter 35 Section 1 Laws 2018**

SECTION 1. Section 53-5-2 NMSA 1978 (being Laws 1978, Chapter 9, Section 1, as amended) is amended to read:

"53-5-2. CORPORATE AND SUPPLEMENTAL REPORTS.--

A. Pursuant to rules that the secretary of state adopts to implement this section, a domestic or foreign corporation that is not exempted shall file in the office of the secretary of state within thirty days after the date on which its certificate of incorporation or its certificate of authority, as the case may be, is issued by the secretary of state, and biennially thereafter on or before the fifteenth day of the fourth month following the end of its taxable year, a corporate report in the form prescribed and furnished to the corporation not less than thirty days prior to such reporting date, by the secretary of state, and signed and sworn to by the chair of the board, president, vice president, secretary, principal accounting officer or authorized agent of the corporation, showing among other information prescribed by the secretary of state:

(1) the current status of:

(a) the name of the corporation;



(b) the mailing address and: 1) street address if within a municipality; or 2) rural route number and box number or the geographical location, using well-known landmarks, if outside a municipality, of the corporation's registered office in this state and the name of the agent upon whom process against the corporation may be served;

(c) the names and addresses of all the directors and officers of the corporation and when the term of office of each expires;

(d) the address of the corporation's principal place of business within the state and, if a foreign corporation, the address of its registered office in the state or country under the laws of which it is incorporated and the principal office of the corporation, if different from the registered office; and

(e) the date for the next annual meeting of the shareholders for the election of directors; and

(2) the corporation's taxpayer identification number issued by the revenue processing division of the taxation and revenue department.

B. When the secretary of state receives a report required to be filed by a corporation under the Corporate Reports Act, the secretary of state shall determine if the report conforms to the requirements of this section. If the secretary of state finds that the report conforms, it shall be filed. If the secretary of state finds that the report does not conform, the secretary of state shall promptly return the report to the corporation for any necessary corrections, in which event the penalties prescribed in the Corporate Reports Act for failure to file the report in the time provided shall not apply if the report is corrected and returned to the secretary of state within thirty days from the date on which it was mailed to the corporation by the secretary of state.

C. The secretary of state may refuse to file a corporate report or a supplemental report received from a corporation that has not paid all fees, including penalties and interest due and payable, to the secretary of state at the time of filing. However, if the corporation and the secretary of state are engaged in any adversary proceeding over the assessment of any fees, the secretary of state shall file the report of the corporation upon its submission to the secretary of state.

D. A supplemental report shall be filed with the secretary of state within thirty days if, after the filing of the corporate report required under the Corporate Reports Act, a change is made in:

(1) the mailing address, street address, rural route number and box number or the geographical location of its registered office in this state and the name of the agent upon whom process against the corporation may be served;

(2) 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; or

(3) its principal place of business within or without the state."

## **Chapter 35 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 225

Approved March 1, 2018

## **LAWS 2018, CHAPTER 36**

AN ACT

RELATING TO TAXATION; ENACTING THE FOSTER YOUTH EMPLOYMENT INCOME TAX CREDIT AND THE FOSTER YOUTH EMPLOYMENT CORPORATE INCOME TAX CREDIT.

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

## **Chapter 36 Section 1 Laws 2018**

SECTION 1. A new section of the Income Tax Act is enacted to read:

"FOSTER YOUTH EMPLOYMENT INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another individual and who employs a qualified foster youth in New Mexico is eligible for a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount up to one thousand dollars (\$1,000) of the gross wages paid to each qualified foster youth by the taxpayer during the taxable year for which the return is filed. A taxpayer who employs a qualified foster youth for less than the full taxable year is eligible for a credit amount equal to one thousand dollars (\$1,000) multiplied by the fraction of a full year for which the qualified foster youth was employed. The tax credit provided by this section may be referred to as the "foster youth employment income tax credit".

B. The purpose of the foster youth employment income tax credit is to encourage the employment of individuals who as youth were adjudicated as abused or neglected or who were in the legal custody of the children, youth and families

department under the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services.

C. A taxpayer may claim the foster youth employment income tax credit provided in this section for each taxable year in which the taxpayer employs one or more qualified foster youths; provided that the taxpayer may not claim the foster youth employment income tax credit for any individual qualified foster youth for more than one calendar year from the date of hire.

D. That portion of a foster youth employment income tax credit approved by the department that exceeds a taxpayer's income tax liability in the taxable year in which the foster youth employment income tax credit is claimed shall not be refunded to the taxpayer but may be carried forward for up to three years. The foster youth employment income tax credit shall not be transferred to another taxpayer.

E. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the foster youth employment income tax credit that would have been claimed on a joint return.

F. A taxpayer may be allocated the right to claim a foster youth employment income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to Subsection A of this section.

G. The taxpayer shall submit to the department with respect to each employee for whom the foster youth employment income tax credit is claimed information required by the department with respect to the qualified foster youth's employment by the taxpayer during the taxable year for which the foster youth employment income tax credit is claimed, including information establishing that the employee is a qualified foster youth that can be used to determine that the employee was not also employed in the same taxable year by another taxpayer claiming a foster youth employment income or corporate income tax credit for that employee pursuant to this section or the Corporate Income and Franchise Tax Act.

H. The department shall:

(1) adopt rules establishing procedures to certify that an employee is a qualified foster youth for purposes of obtaining a foster youth employment income tax credit. The rules shall ensure that not more than one foster youth employment income tax credit per qualified foster youth shall be allowed in a taxable year and that the credits allowed per qualified foster youth are limited to a maximum of one year's employment; and

(2) collaborate with the children, youth and families department, the New Mexico Indian nations, tribes and pueblos and the United States department of the interior bureau of Indian affairs division of human services to establish the certification procedures.

I. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

J. The department shall compile an annual report on the foster youth employment income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the credit. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

K. As used in this section, "qualified foster youth" means an individual:

(1) who:

(a) is currently in the legal custody of the children, youth and families department pursuant to the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services; or

(b) within the seven years prior to the taxable year for which the tax credit is claimed, was aged fourteen years or older and was in the legal custody of the children, youth and families department pursuant to the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services;

(2) who works at least twenty hours per week during the taxable year for which the foster youth employment income tax credit is claimed; and

(3) who was not previously employed by the taxpayer prior to the taxable year for which the foster youth employment income tax credit is claimed."

## **Chapter 36 Section 2 Laws 2018**

SECTION 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"FOSTER YOUTH EMPLOYMENT CORPORATE INCOME TAX CREDIT.--

A. A taxpayer that employs a qualified foster youth in New Mexico is eligible for a credit against the taxpayer's tax liability imposed pursuant to the Corporate

Income and Franchise Tax Act in an amount up to one thousand dollars (\$1,000) of the gross wages paid to each qualified foster youth by the taxpayer during the taxable year for which the return is filed. A taxpayer that employs a qualified foster youth for less than the full taxable year is eligible for a credit amount equal to one thousand dollars (\$1,000) multiplied by the fraction of a full year for which the qualified foster youth was employed. The tax credit provided by this section may be referred to as the "foster youth employment corporate income tax credit".

B. The purpose of the foster youth employment corporate income tax credit is to encourage the employment of individuals who as youth were adjudicated as abused or neglected or who were in the legal custody of the children, youth and families department under the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services.

C. A taxpayer may claim the foster youth employment corporate income tax credit provided in this section for each taxable year in which the taxpayer employs one or more qualified foster youths; provided that the taxpayer may not claim the foster youth employment corporate income tax credit for any individual qualified foster youth for more than one calendar year from the date of hire.

D. That portion of a foster youth employment corporate income tax credit approved by the department that exceeds a taxpayer's corporate income tax liability in the taxable year in which the foster youth employment corporate income tax credit is claimed shall not be refunded to the taxpayer but may be carried forward for up to three years. The foster youth employment corporate income tax credit shall not be transferred to another taxpayer.

E. The taxpayer shall submit to the department with respect to each employee for whom the foster youth employment corporate income tax credit is claimed information required by the department with respect to the qualified foster youth's employment by the taxpayer during the taxable year for which the foster youth employment corporate income tax credit is claimed, including information establishing that the employee is a qualified foster youth that can be used to determine that the employee was not also employed in the same taxable year by another taxpayer claiming a foster youth employment income or corporate income tax credit for that employee pursuant to this section or the Income Tax Act.

F. The department shall:

(1) adopt rules establishing procedures to certify that an employee is a qualified foster youth for purposes of obtaining a foster youth employment corporate income tax credit. The rules shall ensure that not more than one foster youth employment corporate income tax credit per qualified foster youth shall be allowed in a taxable year and that the credits allowed per qualified foster youth are limited to a maximum of one year's employment; and

(2) collaborate with the children, youth and families department, the New Mexico Indian nations, tribes and pueblos and the United States department of the interior bureau of Indian affairs division of human services to establish the certification procedures.

G. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

H. The department shall compile an annual report on the foster youth employment corporate income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the credit. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

I. As used in this section, "qualified foster youth" means an individual:

(1) who:

(a) is currently in the legal custody of the children, youth and families department pursuant to the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services; or

(b) within the seven years prior to the taxable year for which the tax credit is claimed, was aged fourteen years or older and was in the legal custody of the children, youth and families department pursuant to the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services;

(2) who works at least twenty hours per week during the taxable year for which the foster youth employment corporate income tax credit is claimed; and

(3) who was not previously employed by the taxpayer prior to the taxable year for which the foster youth employment corporate income tax credit is claimed."

## **Chapter 36 Section 3 Laws 2018**

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2018.

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Senate Bill 231

Approved March 1, 2018

## **LAWS 2018, CHAPTER 37**

AN ACT

RELATING TO LAW ENFORCEMENT TRAINING; REQUIRING INFORMATION ON STRANGULATION TO BE INCLUDED IN DOMESTIC ABUSE INCIDENT TRAINING.

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

### **Chapter 37 Section 1 Laws 2018**

SECTION 1. Section 29-7-4.1 NMSA 1978 (being Laws 2002, Chapter 34, Section 3 and Laws 2002, Chapter 35, Section 3) is amended to read:

"29-7-4.1. DOMESTIC ABUSE INCIDENT TRAINING.--Domestic abuse incident training that includes information on strangulation shall be included in the curriculum of each basic law enforcement training class. Domestic abuse incident training shall be included as a component of in-service training each year for certified police officers."

### **Chapter 37 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 40

Approved March 1, 2018

## **LAWS 2018, CHAPTER 38**

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; AMENDING THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT TO REQUIRE THE PUBLIC EDUCATION DEPARTMENT TO USE PRIOR YEAR DATA FOR DETERMINATION OF DISTRIBUTION AMOUNTS TO SCHOOL DISTRICTS.

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

## Chapter 38 Section 1 Laws 2018

SECTION 1. Section 22-25-9 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

### "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

A. Except as provided in Subsection C or G of this section, the secretary shall distribute to any school district that has imposed a tax under the Public School Capital Improvements Act an amount from the public school capital improvements fund that is equal to the amount by which the revenue estimated to be received from the imposed tax, using prior year valuations, at the rate certified by the department of finance and administration in accordance with Section 22-25-7 NMSA 1978, assuming a one hundred percent collection rate, is less than an amount calculated by multiplying an average of the school district's prior year second and third reporting dates' total program units by the amount specified in Subsection B of this section and further multiplying the product obtained by the tax rate approved by the qualified electors in the most recent election on the question of imposing a tax under the Public School Capital Improvements Act. The distribution shall be made each year that the tax is imposed in accordance with Section 22-25-7 NMSA 1978; provided that no state distribution from the public school capital improvements fund may be used for capital improvements to any administration building of a school district. In the event that sufficient funds are not available in the public school capital improvements fund to make the state distribution provided for in this section, the dollar per program unit figure shall be reduced as necessary.

B. In calculating the state distribution pursuant to Subsection A of this section, the following amounts shall be used:

(1) the amount calculated pursuant to Subsection D of this section per program unit; and

(2) an additional amount certified to the secretary by the public school capital outlay council. No later than June 1 of each year, the council shall determine the amount needed in the next fiscal year for public school capital outlay projects pursuant to the Public School Capital Outlay Act and the amount of revenue, from all sources, available for the projects. If, in the sole discretion of the council, the amount available exceeds the amount needed, the council may certify an additional amount pursuant to this paragraph; provided that the sum of the amount calculated pursuant to this paragraph plus the amount in Paragraph (1) of this subsection shall not result in a total statewide distribution that, in the opinion of the council, exceeds one-half of the total revenue estimated to be received from taxes imposed pursuant to the Public School Capital Improvements Act.



C. For any fiscal year notwithstanding the amount calculated to be distributed pursuant to Subsections A and B of this section, except as provided in Subsection G of this section, a school district, the voters of which have approved a tax pursuant to Section 22-25-3 NMSA 1978, shall not receive a distribution less than the amount calculated pursuant to Subsection E of this section multiplied by the average of the school district's prior year second and third reporting dates' total program units and further multiplying the product obtained by the approved tax rate.

D. For purposes of calculating the distribution pursuant to Subsection B of this section, the amount used in Paragraph (1) of that subsection shall equal seventy dollars (\$70.00) in fiscal year 2008 and in each subsequent fiscal year shall equal the amount for the previous fiscal year adjusted by the percentage increase between the next preceding calendar year and the preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor.

E. For purposes of calculating the minimum distribution pursuant to Subsection C of this section, the amount used in that subsection shall equal five dollars (\$5.00) through fiscal year 2005 and in each subsequent fiscal year shall equal the amount for the previous fiscal year adjusted by the percentage increase between the next preceding calendar year and the preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor.

F. In expending distributions made pursuant to this section, school districts and charter schools shall give priority to maintenance projects, including payments under contracts with regional education cooperatives for maintenance support services. In addition, distributions made pursuant to this section may be expended by school districts and charter schools as follows:

(1) for the school district portion of the total project cost for roof repair or replacement required by Section 22-24-4.3 NMSA 1978; or

(2) for the school district portion of payments made under a financing agreement entered into by a school district or a charter school for the leasing of a building or other real property with an option to purchase for a price that is reduced according to the payments made, if the school district has received a grant for the state share of the payments pursuant to Subsection D of Section 22-24-5 NMSA 1978.

G. If a serious deficiency in a roof of a public school facility has been corrected pursuant to Section 22-24-4.4 NMSA 1978 and the school district has refused to pay its share of the cost as determined by that section, until the public school capital outlay fund is reimbursed in full for the share attributed to the district, the distribution calculated pursuant to this section shall not be made to the school district but shall be made to the public school capital outlay fund.

H. A portion of each distribution made by the state pursuant to this section on or after July 1, 2009 shall be further distributed by the school district to each locally chartered or state-chartered charter school located within the school district. The amount to be distributed to each charter school shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the second and third reporting dates of the prior school year is to the total such enrollment in the school district; provided that no distribution shall be made to an approved charter school that had not commenced classroom instruction in the prior school year. Each year, the department shall certify to the school district the amount to be distributed to each charter school. Distributions received by a charter school pursuant to this subsection shall be expended pursuant to the provisions of the Public School Capital Improvements Act; except that if capital improvements for the charter school were not identified in a resolution approved by the electors, the charter school may expend the distribution for any capital improvements, including those specified in Subsection F of this section.

I. In determining a school district's total program units pursuant to Subsections A and C of this section and a school district's total enrollment pursuant to Subsection H of this section, students attending a state-chartered charter school within the school district shall be included.

J. In making distributions pursuant to this section, the secretary shall include such reporting requirements and conditions as are required by rule of the public school capital outlay council. The council shall adopt such requirements and conditions as are necessary to ensure that the distributions are expended in the most prudent manner possible and are consistent with the original purpose as specified in the authorizing resolution. Copies of reports or other information received by the secretary in response to the requirements and conditions shall be forwarded to the council."

## **Chapter 38 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 48

Approved March 1, 2018

## **LAWS 2018, CHAPTER 39**

AN ACT

RELATING TO THE COURTS; AMENDING COMPOSITION OF THE SUPREME COURT BUILDING COMMISSION; TRANSFERRING AUTHORITY FOR THE SUPREME COURT LAW LIBRARY AND APPOINTMENT AUTHORITY FOR THE

SUPREME COURT LAW LIBRARIAN TO THE SUPREME COURT; CONSOLIDATING PROVISIONS PERTAINING TO THE SUPREME COURT LAW LIBRARIAN; PROVIDING FOR A CONSOLIDATED APPROPRIATION; RECOMPILING SECTIONS OF THE NMSA 1978 PERTAINING TO THE PROPERTY OF THE SUPREME COURT LAW LIBRARY; REPEALING SECTIONS OF THE NMSA 1978 RELATING TO THE SUPREME COURT LAW LIBRARY.

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

## **Chapter 39 Section 1 Laws 2018**

SECTION 1. A new Section 34-2-11 NMSA 1978 is enacted to read:

"34-2-11. SUPREME COURT LAW LIBRARY.--The supreme court shall have the management, control and supervision of the supreme court law library and shall:

A. have the right to prescribe rules for the management and control of the supreme court law library, as in their judgment is fit and proper for the safety, care and custody of the library and its shelving, books, documents and archives and for the convenience and accommodation of the patrons of the library;

B. order and purchase all books for the library for which an appropriation is made;

C. have full and complete management of the financial affairs of the library;

D. meet from time to time, select from opinions of the supreme court and designate to the clerk of the supreme court the opinions that shall be officially reported and published;

E. supervise, amend and correct all syllabi or headnotes for published opinions; and

F. trade, barter and exchange books and periodicals in the supreme court law library for other books and periodicals of equal or similar value."

## **Chapter 39 Section 2 Laws 2018**

SECTION 2. Section 18-1-6 NMSA 1978 (being Laws 1915, Chapter 47, Section 5, as amended) is recompiled as Section 34-2-12 NMSA 1978 and is amended to read:

"34-2-12. PAYMENT OF ACCOUNTS.--The secretary of finance and administration shall draw warrants on the state treasurer in payment of all accounts of the supreme court law library that have been audited by the chief justice and justices of

the supreme court or their designees, to the extent of the appropriations made for such purposes but for no more."

### **Chapter 39 Section 3 Laws 2018**

SECTION 3. A new Section 34-2-13 NMSA 1978 is enacted to read:

"34-2-13. SUPREME COURT LAW LIBRARIAN--APPOINTMENT--DUTIES--BOND--PROHIBITIONS--FINES.--

A. The supreme court law library shall be under the care and custody of a librarian who shall be appointed by the supreme court and shall hold office at its pleasure.

B. The librarian shall have the custody and charge of all books, archives, maps, charts, engravings and all other things properly belonging to the library or directed to be deposited in the library.

C. The librarian, before taking office, shall give bond to the state of New Mexico in the sum of two thousand dollars (\$2,000), with sufficient surety or sureties, for the faithful performance of the librarian's duties, for the preservation and safe delivery of all property committed to the librarian's care to the librarian's successor and for the faithful paying over of all funds coming into the librarian's hands as librarian. The bond shall be approved by the chief justice of the supreme court and be filed with the clerk of the supreme court.

D. If the librarian permits or allows a person not authorized by rules promulgated by the supreme court to remove a book or other property from the library, the librarian shall be deemed guilty of a misdemeanor, and subject to a fine of ten dollars (\$10.00) for every book or other article so removed."

### **Chapter 39 Section 4 Laws 2018**

SECTION 4. Section 18-1-10 NMSA 1978 (being Laws 1915, Chapter 47, Section 10) is recompiled as Section 34-2-14 NMSA 1978 and is amended to read:

"34-2-14. UNLAWFUL REMOVAL OF PROPERTY--PENALTY.--A person not authorized by the rules promulgated by the supreme court who takes from the supreme court law library a book or other property belonging to the library, either with or without the consent of the librarian, shall be deemed guilty of a misdemeanor and subject to a fine of ten dollars (\$10.00) for every book or other property so taken; provided that in case of a felonious taking of such book or property, the person guilty thereof shall be punished in the manner and to the extent provided by law for the punishment of those felonies."

### **Chapter 39 Section 5 Laws 2018**

SECTION 5. Section 18-1-11 NMSA 1978 (being Laws 1915, Chapter 47, Section 11) is recompiled as Section 34-2-15 NMSA 1978 and is amended to read:

"34-2-15. LIABILITY FOR INJURY TO BOOKS OR PROPERTY.--A person who injures, defaces or destroys a book or other property that belongs to the supreme court law library shall forfeit twice the value of that book or property to be sued for and recovered by the state. It shall be the duty of the librarian of the supreme court law library to promptly notify the supreme court of any such offense."

### **Chapter 39 Section 6 Laws 2018**

SECTION 6. A new Section 34-2-16 NMSA 1978 is enacted to read:

"34-2-16. CONSOLIDATED APPROPRIATION.--For purposes of the annual appropriation and budgeting process, and notwithstanding any state budget statutes to the contrary, the operations of the supreme court, supreme court building commission and supreme court law library shall be funded and budgeted through a consolidated appropriation to the supreme court."

### **Chapter 39 Section 7 Laws 2018**

SECTION 7. Section 34-3-1 NMSA 1978 (being Laws 1967, Chapter 214, Section 1) is amended to read:

"34-3-1. SUPREME COURT BUILDING COMMISSION--CREATION.--There is created the "supreme court building commission", which shall consist of the chief justice and justices of the supreme court."

### **Chapter 39 Section 8 Laws 2018**

SECTION 8. Section 34-3-2 NMSA 1978 (being Laws 1967, Chapter 214, Section 2) is amended to read:

"34-3-2. SUPREME COURT BUILDING COMMISSION--ORGANIZATION.--The chief justice of the supreme court shall act as chair of the supreme court building commission, and the clerk of the supreme court shall act as secretary for the commission. The secretary shall keep complete records of all commission business and shall approve all vouchers submitted to the department of finance and administration for the expenditure of funds appropriated to the supreme court for the operations of the supreme court building commission. Three members of the commission constitute a quorum for the transaction of business, and all actions of the commission shall be by a majority vote of the full commission."

### **Chapter 39 Section 9 Laws 2018**

SECTION 9. Section 34-3-3 NMSA 1978 (being Laws 1967, Chapter 214, Section 3) is amended to read:

"34-3-3. SUPREME COURT BUILDING COMMISSION--DUTIES.--The supreme court building commission has care, custody and control of the supreme court building and its grounds, along with all equipment, furniture and fixtures purchased or used by agencies of the judicial department housed in the building. With respect to this property, the commission shall:

A. provide for the preservation, repair, care, cleaning, heating and lighting;  
and

B. hire necessary employees for this purpose and fix their compensation and terms of employment, but no compensation shall be paid to any person who is paid compensation by any other agency of the state."

### **Chapter 39 Section 10 Laws 2018**

SECTION 10. REPEAL.--Sections 18-1-1 through 18-1-5, 18-1-7 through 18-1-9 and 18-1-12 NMSA 1978 (being Laws 1915, Chapter 47, Sections 1 through 4, Laws 1966, Chapter 28, Section 16, Laws 1915, Chapter 47, Sections 6, 7 and 9 and Laws 1939, Chapter 4, Section 1, as amended) are repealed.

### **Chapter 39 Section 11 Laws 2018**

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 61

Approved March 1, 2018

## **LAWS 2018, CHAPTER 40**

AN ACT

RELATING TO VICTIMS OF CRIME; ENACTING THE CONFIDENTIAL SUBSTITUTE ADDRESS ACT; CREATING THE CONFIDENTIAL SUBSTITUTE ADDRESS PROGRAM FOR VICTIMS OF CERTAIN CRIMES; REPEALING SECTION 40-13-11 NMSA 1978 (BEING LAWS 2007, CHAPTER 131, SECTION 1).

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

## **Chapter 40 Section 1 Laws 2018**

SECTION 1. SHORT TITLE.--This act may be cited as the "Confidential Substitute Address Act".

## **Chapter 40 Section 2 Laws 2018**

SECTION 2. DEFINITIONS.--As used in the Confidential Substitute Address Act:

A. "agency" means an agency of the state or of a political subdivision of the state;

B. "applicant" means a person who submits an application to participate in the confidential substitute address program;

C. "application assistant" means a person who works or volunteers for a domestic violence or sexual assault program and who assists in preparing an application for the confidential substitute address program;

D. "confidential substitute address" means an address designated for a participant by the secretary of state pursuant to the Confidential Substitute Address Act;

E. "delivery address" means the address where an applicant or a participant receives mail, and it may be the same as the person's residential address;

F. "domestic violence" means "domestic abuse", as defined in the Family Violence Protection Act;

G. "participant" means a person certified to participate in the confidential substitute address program pursuant to the Confidential Substitute Address Act;

H. "public record" means "public records", as defined in the Inspection of Public Records Act; and

I. "residential address" means the street address where an applicant or participant resides or will relocate.

## **Chapter 40 Section 3 Laws 2018**

SECTION 3. CONFIDENTIAL SUBSTITUTE ADDRESS PROGRAM--APPLICATION.--

A. The "confidential substitute address program" is created in the office of the secretary of state to provide a process by which a victim of domestic violence may protect the confidentiality of the victim's residential and delivery addresses in public records.

B. An applicant, with the assistance of an application assistant, shall submit an application to the secretary of state on a form prescribed by the secretary of state. The application assistant's signature shall serve as recommendation that the applicant participate in the confidential substitute address program.

C. An application shall be signed and dated by the applicant and the application assistant and shall include:

(1) the applicant's name;

(2) the applicant's statement that the applicant fears for the safety of the applicant, the applicant's child or another person in the applicant's household because of a threat of immediate or future harm;

(3) the applicant's statement that the disclosure of the applicant's residential or delivery address would endanger the applicant, the applicant's child or another person in the applicant's household;

(4) the applicant's statement that the applicant has confidentially relocated in the past ninety days or will relocate within the state in the next ninety days;

(5) a designation of the secretary of state as the applicant's agent for the purpose of receiving mail, deliveries and service of process, notice or demand;

(6) the applicant's residential and delivery addresses, if different, the confidentiality of which the applicant seeks to protect;

(7) the applicant's telephone number and email address; and

(8) the applicant's statement under penalty of perjury that the information contained in the application is true.

## **Chapter 40 Section 4 Laws 2018**

### **SECTION 4. SECRETARY OF STATE--DUTIES--SERVICE ON PARTICIPANT.-**

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A. The secretary of state shall:

(1) certify applicants whose applications comply with the requirements of the Confidential Substitute Address Act to participate in the confidential substitute address program; and

(2) with respect to each certified participant:

(a) issue a confidential substitute address identification card;



(b) designate a confidential substitute address that shall be used in place of the participant's residential or delivery address by state and local government agencies;

(c) receive mail and deliveries sent to a participant's confidential substitute address and forward the mail and deliveries to the participant's delivery address at no charge to the participant;

(d) accept service of process, notice or demand that is required or permitted by law to be served on the participant and immediately forward the process, notice or demand to the participant's delivery address at no charge to the participant; and

(e) maintain records of the following that are received and forwarded by the secretary of state: 1) a participant's certified and registered mail; and 2) any process, notice or demand that is served on a participant.

B. Service made pursuant to the provisions of this section is perfected three days after it is accepted by the secretary of state.

## **Chapter 40 Section 5 Laws 2018**

### **SECTION 5. AGENCIES--USE OF CONFIDENTIAL SUBSTITUTE ADDRESS--PUBLIC RECORDS.--**

A. A participant shall:

(1) contact each agency that requests or uses an address; and

(2) provide the agency with a copy of the participant's confidential substitute address identification card.

B. Agencies that receive copies of confidential substitute address identification cards submitted pursuant to this section shall use the participant's confidential substitute address for all purposes.

C. A school district shall use a participant's confidential substitute address as the participant's address of record and, if necessary, shall verify a student's enrollment eligibility with the secretary of state.

D. A participant's residential or delivery address, telephone number and email address that are maintained by an agency are not public records and shall not be disclosed pursuant to the Inspection of Public Records Act while a person is a participant.

## **Chapter 40 Section 6 Laws 2018**

SECTION 6. CHANGE OF PARTICIPANT NAME, ADDRESS OR TELEPHONE NUMBER--REQUIREMENTS.--

A. A participant shall notify the secretary of state within ten days of legally changing the participant's name and shall provide the secretary of state with a certified copy of documentation of the legal name change.

B. A participant shall notify the secretary of state within ten days of a change to the participant's residential address, delivery address, telephone number or email address.

**Chapter 40 Section 7 Laws 2018**

SECTION 7. PARTICIPANT DECERTIFICATION.--

A. A participant shall be decertified from the confidential substitute address program if:

(1) the participant submits a request to withdraw from the confidential substitute address program to the secretary of state;

(2) the participant fails to notify the secretary of state of a legal name change or a change to the participant's residential address, delivery address, telephone number or email address; or

(3) mail that is forwarded by the secretary of state to the participant's delivery address is returned as undeliverable.

B. If the secretary of state determines that one or more of the causes for decertification provided in Subsection A of this section exist, the secretary of state shall send notice of the participant's decertification to the participant's delivery and residential addresses and shall attempt to notify the participant by telephone and email. The participant shall be given ten days from the date of decertification to appeal the decertification.

C. A person who is decertified from the confidential substitute address program shall not continue to use the person's confidential substitute address.

D. For six months after a participant has been decertified, the secretary of state shall forward mail and deliveries to an address provided by the former participant. Upon receipt of mail and deliveries pursuant to this subsection, a former participant shall provide an updated address to the sender.

**Chapter 40 Section 8 Laws 2018**

SECTION 8. PARTICIPANT RECORDS--CONFIDENTIALITY--DISCLOSURE PROHIBITED.--

A. The secretary of state and an agency shall not disclose the residential address, delivery address, telephone number or email address of a participant unless the information is required to be disclosed pursuant to a court order. A person or agency that receives a participant's residential address, delivery address, telephone number or email address pursuant to a court order shall not in turn disclose that information unless pursuant to a court order or unless the person has been decertified.

B. The secretary of state shall maintain the confidentiality of all records relating to an applicant for or participant in the confidential substitute address program while the person is a participant and shall:

(1) store all tangible copies of program records in locked equipment;

(2) store all electronic copies of program records in a password-protected system;

(3) restrict access to all program records to secretary of state staff members who are approved to access the records as provided in this section; and

(4) release program records only on a court's order.

C. The secretary of state shall establish a system for restricting access to program records to approved staff members. Before being approved and granted access to program records, the staff member shall:

(1) submit to a criminal background check performed by the department of public safety;

(2) not have a record of a sex offense, felony or a misdemeanor violation related to domestic violence or sexual assault on the results of the person's criminal background check; and

(3) complete forty hours of training, including a domestic violence training course provided by the children, youth and families department and sexual assault training provided by the department of health or the crime victims reparation commission or its successor.

## **Chapter 40 Section 9 Laws 2018**

SECTION 9. RULES.--The secretary of state shall promulgate rules, including rules regarding records and confidentiality retention, to implement the provisions of the Confidential Substitute Address Act.

## **Chapter 40 Section 10 Laws 2018**

SECTION 10. REPEAL.--Section 40-13-11 NMSA 1978 (being Laws 2007, Chapter 131, Section 1) is repealed.

## **Chapter 40 Section 11 Laws 2018**

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 119

Approved March 1, 2018

# **LAWS 2018, CHAPTER 41**

AN ACT

RELATING TO PHARMACEUTICALS; AMENDING A SECTION OF THE CONTROLLED SUBSTANCES ACT TO REMOVE FROM LIABILITY UNDER THE CONTROLLED SUBSTANCES ACT CERTAIN ACTIVITIES RELATING TO PRESCRIPTION DRUGS CONTAINING A MARIJUANA DERIVATIVE; PROVIDING FOR A CONTINGENT EFFECTIVE DATE; AUTHORIZING RECONCILIATION OF MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW.

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

## **Chapter 41 Section 1 Laws 2018**

SECTION 1. Section 30-31-6 NMSA 1978 (being Laws 1972, Chapter 84, Section 6, as amended) is amended to read:

"30-31-6. SCHEDULE I.--The following controlled substances are included in Schedule I:

A. any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically exempted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) acetylmethadol;

(2) allylprodine;

- (3) alphacetylmethadol;
- (4) alphameprodine;
- (5) alphamethadol;
- (6) benzethidine;
- (7) betacetylmethadol;
- (8) betameprodine;
- (9) betamethadol;
- (10) betaprodine;
- (11) clonitazene;
- (12) dextromoramide;
- (13) dextrorphan;
- (14) diampromide;
- (15) diethylthiambutene;
- (16) dimenoxadol;
- (17) dimepheptanol;
- (18) dimethylthiambutene;
- (19) dioxaphetyl butyrate;
- (20) dipipanone;
- (21) ethylmethylthiambutene;
- (22) etonitazene;
- (23) etoxeridine;
- (24) furethidine;
- (25) hydroxypethidine;

- (26) ketobemidone;
- (27) levomoramide;
- (28) levophenacymorphan;
- (29) morpheridine;
- (30) noracymethadol;
- (31) norlevorphanol;
- (32) normethadone;
- (33) norpipanone;
- (34) phenadoxone;
- (35) phenampromide;
- (36) phenomorphan;
- (37) phenoperidine;
- (38) piritramide;
- (39) proheptazine;
- (40) properidine;
- (41) racemoramide; and
- (42) trimeperidine;

B. any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) acetorphine;
- (2) acetyldihydrocodeine;
- (3) benzylmorphine;
- (4) codeine methylbromide;

- (5) codeine-N-oxide;
- (6) cyprenorphine;
- (7) desomorphine;
- (8) dihydromorphine;
- (9) etorphine;
- (10) heroin;
- (11) hydromorphinol;
- (12) methyl-desorphine;
- (13) methyl-dihydromorphine;
- (14) morphine methylbromide;
- (15) morphine methylsulfonate;
- (16) morphine-N-oxide;
- (17) myrophine;
- (18) nicocodeine;
- (19) nicomorphine;
- (20) normorphine;
- (21) pholcodine; and
- (22) thebacon;

C. any material, compound, mixture or preparation that contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;

- (4) bufotenine;
- (5) diethyltryptamine;
- (6) dimethyltryptamine;
- (7) 4-methyl-2,5-dimethoxy amphetamine;
- (8) ibogaine;
- (9) lysergic acid diethylamide;
- (10) marijuana;
- (11) mescaline;
- (12) peyote, except as otherwise provided in the Controlled Substances Act;
- (13) N-ethyl-3-piperidyl benzilate;
- (14) N-methyl-3-piperidyl benzilate;
- (15) psilocybin;
- (16) psilocyn;
- (17) tetrahydrocannabinols;
- (18) hashish;
- (19) synthetic cannabinoids, including:
- (a) 1-[2-(4-(morpholinyl)ethyl)-3-(1-naphthoyl)indole];
  - (b) 1-butyl-3-(1-naphthoyl)indole;
  - (c) 1-hexyl-3-(1-naphthoyl)indole;
  - (d) 1-pentyl-3-(1-naphthoyl)indole;
  - (e) 1-pentyl-3-(2-methoxyphenylacetyl) indole;
  - (f) cannabicyclohexanol (CP 47, 497 and homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;



(g) 6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);

(h) dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

(i) 1-pentyl-3-(4-chloro naphthoyl) indole;

(j) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone; and

(k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy cyclohexyl)-phenol;

(20) 3,4-methylenedioxy methcathinone;

(21) 3,4-methylenedioxy pyrovalerone;

(22) 4-methyl methcathinone;

(23) 4-methoxy methcathinone;

(24) 3-fluoro methcathinone; and

(25) 4-fluoro methcathinone;

D. the enumeration of peyote as a controlled substance does not apply to the use of peyote in bona fide religious ceremonies by a bona fide religious organization, and members of the organization so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the organization or its members shall comply with the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 and all other requirements of law;

E. the enumeration of marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol as Schedule I controlled substances does not apply to:

(1) the use of marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol by certified patients pursuant to the Controlled Substances Therapeutic Research Act or by qualified patients pursuant to the provisions of the Lynn and Erin Compassionate Use Act; or

(2) the use, dispensing, possession, prescribing, storage or transport of a prescription drug that the United States food and drug administration has approved and that contains marijuana, a tetrahydrocannabinol derivative or a chemical derivative of tetrahydrocannabinol; and

F. controlled substances added to Schedule I by rule adopted by the board pursuant to Section 30-31-3 NMSA 1978."

## **Chapter 41 Section 2 Laws 2018**

SECTION 2. TEMPORARY PROVISION--COMPILATION INSTRUCTION--RECONCILIATION.--If acts making amendments to Section 30-31-6 NMSA 1978 are enacted by the first and second sessions of the fifty-third legislature, the provisions of those acts shall be reconciled and compiled in accordance with the provisions of Section 12-1-8 NMSA 1978, notwithstanding that the amendments were not made in the same session of the legislature.

## **Chapter 41 Section 3 Laws 2018**

SECTION 3. CONTINGENT EFFECTIVE DATE--NOTIFICATION.--The effective date of the provisions of this act is thirty days following the date that the board of pharmacy certifies to the New Mexico compilation commission and the director of the legislative council service that the United States food and drug administration has approved one or more drugs containing a marijuana derivative. The board of pharmacy shall notify the New Mexico compilation commission and the director of the legislative council service immediately upon the board's knowledge that the United States food and drug administration has approved for the first time a drug containing a marijuana derivative.

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HHHC/House Bill 139

Approved March 1, 2018

## **LAWS 2018, CHAPTER 42**

AN ACT

RELATING TO INSURANCE FRAUD; CREATING THE AUTOMOBILE THEFT PREVENTION AUTHORITY IN THE OFFICE OF SUPERINTENDENT OF INSURANCE; DECLARING AN EMERGENCY.

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

## **Chapter 42 Section 1 Laws 2018**

SECTION 1. Section 59A-16C-1 NMSA 1978 (being Laws 1998, Chapter 115, Section 1) is amended to read:

"59A-16C-1. SHORT TITLE.--Chapter 59A, Article 16C NMSA 1978 may be cited as the "Insurance Fraud Act"."

## **Chapter 42 Section 2 Laws 2018**

SECTION 2. A new section of the Insurance Fraud Act is enacted to read:

"AUTOMOBILE THEFT PREVENTION AUTHORITY--CREATED--BOARD--  
POWERS--DUTIES.--

A. The "automobile theft prevention authority" is created in the office of superintendent of insurance. The automobile theft prevention authority shall be governed by a board of directors. The board shall consist of nine members as follows:

(1) the superintendent;

(2) the director of the administrative office of the district attorneys or the director's designee; and

(3) seven members appointed by the superintendent as follows:

(a) four representatives from different insurance companies who are authorized by the office of superintendent of insurance to issue motor vehicle insurance policies in New Mexico;

(b) two representatives from different law enforcement agencies; and

(c) a representative from the public.

B. Prior to August 1, 2018, the appointing authorities shall appoint all initial members of the board. Board members shall serve six-year terms; except that of the initial members representing insurance companies appointed to the board, the superintendent shall select one member whose initial term is four years and one member whose initial term is two years; and of the initial members representing law enforcement agencies appointed to the board, the superintendent shall select one member whose initial term is two years. The initial public member shall serve an initial term of four years.

C. No appointed member shall serve more than two terms. If a member fails to complete the member's term, the member shall be replaced as soon as practicable by the original appointing authority.

D. Board members shall serve without compensation.

E. The authority shall solicit, review and approve applications for grants to improve and support automobile theft prevention programs or programs for the enforcement or prosecution of automobile theft crimes. The authority shall give priority to applications representing multi-jurisdictional programs. Each application, at a minimum, shall describe the type of theft prevention, enforcement or prosecution program to be implemented.

F. In selecting grant recipients, when practicable, the authority shall award grants to law enforcement agencies.

G. The authority shall not require as a condition of the award of a grant that an agency or political subdivision provide other funding to operate an automobile theft prevention program or a program for the enforcement or prosecution of automobile theft crimes.

H. On or before December 1 of every year, a law enforcement agency that received a grant pursuant to this section in the previous twelve months shall submit a report to the authority concerning the implementation of the program funded through the grant.

I. On or before November 1 of every year, the authority shall report to the appropriate interim legislative committee on the implementation of the programs receiving grants pursuant to this section. The report to the committee shall include:

(1) the number and geographic jurisdiction of law enforcement agencies that received grants under the authority and the amount and duration of the grants;

(2) the change in the number of automobile thefts in areas of the state; and

(3) recommendations for legislative changes to assist in the prevention, enforcement and prosecution of automobile-theft-related criminal activities.

J. On or before November 1 of every year, the authority shall report to the legislative finance committee on the finances of the authority.

K. The authority may seek and receive grant funding from federal, state or local governments or private philanthropic organizations to defray the costs of operating automobile theft prevention programs or programs for the enforcement or prosecution of automobile theft crimes.

L. A law enforcement agency may apply for grants to assist in improving and supporting automobile theft prevention programs or programs for the enforcement or prosecution of automobile theft crimes through statewide planning and coordination."

## **Chapter 42 Section 3 Laws 2018**

SECTION 3. Section 59A-16C-4 NMSA 1978 (being Laws 1998, Chapter 115, Section 4, as amended) is amended to read:

"59A-16C-4. SUPERINTENDENT'S DUTIES.--The superintendent shall:

A. initiate inquiries and conduct investigations when the superintendent has reason to believe that insurance fraud may have been or is being committed;

B. respond to notifications or complaints of suspected insurance fraud generated by state and local police or other law enforcement authorities and governmental units, including the federal government and any other person;

C. review notices and reports of insurance fraud submitted by authorized insurers, their employees, agents or producers or by public adjusters and select those incidents of alleged fraud that, in the superintendent's judgment, require further investigation and conduct the investigations;

D. conduct independent investigations and examinations of insurance transactions and alleged insurance fraud, conduct studies to determine the extent of insurance fraud, deceit or intentional misrepresentation of any kind in the insurance process and publish information and reports on the office of superintendent of insurance's examinations and studies;

E. report incidents of alleged insurance fraud supported by investigations and examinations to the appropriate district attorney and any other appropriate law enforcement, administrative, regulatory or licensing agency and assemble evidence, prepare charges and otherwise assist any prosecutorial authority having jurisdiction over insurance fraud enforcement;

F. assist any official or agency of this state, any other state or the federal government that requests assistance in investigating insurance fraud;

G. maintain records and information in order to produce an annual report of the superintendent's activities undertaken in connection with carrying out the provisions of the Insurance Fraud Act;

H. conduct, in cooperation with the attorney general and the department of public safety, public outreach and awareness programs on the costs of insurance fraud to the public and how members of the public can assist themselves, the superintendent and law enforcement officials in preventing and prosecuting insurance fraud; and

I. assign staff and maintain the automobile theft prevention authority."

## **Chapter 42 Section 4 Laws 2018**

SECTION 4. Section 59A-16C-5 NMSA 1978 (being Laws 1998, Chapter 115, Section 5) is amended to read:

"59A-16C-5. SUPERINTENDENT'S AUTHORITY.--The superintendent may:

A. select and contract with investigative personnel and prosecutors to discharge the superintendent's duties pursuant to the provisions of the Insurance Fraud Act;

B. conduct statewide investigations and prosecutions related to automobile theft;

C. coordinate with law enforcement agencies to investigate and with the attorney general and district attorneys to prosecute cases involving stolen vehicles and insurance fraud; and

D. promulgate rules relating to the creation and operation of the automobile theft prevention authority."

## **Chapter 42 Section 5 Laws 2018**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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House Bill 173, aa, w/ec

Approved March 1, 2018

## **LAWS 2018, CHAPTER 43**

AN ACT

RELATING TO PROCUREMENT; EXTENDING THE TERM OF CERTAIN MULTI-TERM CONTRACTS.

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

## **Chapter 43 Section 1 Laws 2018**

SECTION 1. Section 13-1-150 NMSA 1978 (being Laws 1984, Chapter 65, Section 123, as amended) is amended to read:

"13-1-150. MULTI-TERM CONTRACTS--SPECIFIED PERIOD.--

A. A multi-term contract for items of tangible personal property, construction or services except for professional services, in an amount under twenty-five thousand dollars (\$25,000), may be entered into for any period of time deemed to be in the best interests of the state agency or a local public body not to exceed four years; provided that the term of the contract and conditions of renewal or extension, if any, are included in the specifications and funds are available for the first fiscal period at the time of contracting. If the amount of the contract is twenty-five thousand dollars (\$25,000) or more, the term shall not exceed ten years, including all extensions and renewals, except that for a contract entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act, the term shall not exceed twenty-five years, including all extensions and renewals. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

B. A contract for professional services may not exceed four years, including all extensions and renewals, except for the following:

(1) services required to support or operate federally certified medicaid, financial assistance and child support enforcement management information or payment systems;

(2) services to design, develop or implement the taxation and revenue information management systems project authorized by Laws 1997, Chapter 125;

(3) a multi-term contract for the services of trustees, escrow agents, registrars, paying agents, letter of credit issuers and other forms of credit enhancement and other similar services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities remain outstanding;

(4) services relating to the implementation, operation and administration of the Education Trust Act;

(5) services relating to measurement and verification of conservation-related cost savings and utility cost savings pursuant to the Public Facility Energy Efficiency and Water Conservation Act; and

(6) services relating to the design and engineering of a state public works project:

(a) for a period not to exceed the requisite time for project completion and a subsequent warranty period; and

(b) upon approval of the secretary of finance and administration."

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House Bill 187

Approved March 1, 2018

## **LAWS 2018, CHAPTER 44**

AN ACT

RELATING TO HUMAN SERVICES; ENACTING THE EARLY CHILDHOOD CARE ACCOUNTABILITY ACT; REQUIRING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO ESTABLISH EARLY CHILDHOOD CARE PROGRAM STANDARDS; PROVIDING FOR RULEMAKING AND REPORTING.

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

### **Chapter 44 Section 1 Laws 2018**

SECTION 1. A new section of the Children's Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Early Childhood Care Accountability Act"."

### **Chapter 44 Section 2 Laws 2018**

SECTION 2. A new section of the Children's Code is enacted to read:

"DEFINITIONS.--As used in the Early Childhood Care Accountability Act:

A. "child care assistance" means the assistance administered by the department that provides child care through the child care assistance program for school-aged children as the primary service delivery strategy through a contract with the department that offers services based on income and need for care to parents with children who are school-aged, as department rules define "school-aged";

B. "culturally and linguistically appropriate" means taking into consideration the culture, customs and language of an eligible family;

C. "early childhood care assistance" means assistance administered by the department that provides child care through the child care assistance program for children under five years of age as the primary service delivery strategy through a contract with the department and that offers services based on income criteria and need for care to parents with children who have not yet entered kindergarten;



D. "eligible family" means a family that receives early childhood care assistance or child care assistance through the department;

E. "licensed child care program" means a publicly or privately funded program that:

(1) provides child care in the state in accordance with department standards to school-aged children, as department rules define "school-aged"; and

(2) is licensed by the department;

F. "licensed early childhood care program" means a publicly or privately funded program that provides child care in accordance with department standards to children under five years of age in the state and that is licensed by the department; and

G. "licensed exempt child care program" means a child care home or facility that is exempt from child care licensing requirements pursuant to the Public Health Act."

## **Chapter 44 Section 3 Laws 2018**

SECTION 3. A new section of the Children's Code is enacted to read:

"LICENSED EARLY CHILDHOOD CARE PROGRAMS--REQUIREMENTS.--

A. The department shall adopt and promulgate rules to establish specific standards for licensure and registration of licensed early childhood care programs that provide care for children from birth to five years of age. As part of these standards, the department shall establish and implement a voluntary rating scale and determine levels that accord with levels of service quality. The standards shall ensure that the health, safety, social-emotional support, school readiness and staff qualifications components are consistent in accordance with the tier levels that the department has established by rule. The department shall use the tiered ratings it has established to pay higher rates for higher-rated individual licensed early childhood care program providers. Standards for licensed early childhood care programs shall:

(1) specify the purpose and outcomes of services that constitute the program;

(2) define high-quality service delivery and continuous quality improvement;

(3) provide a common framework for early childhood care service delivery and accountability across all early childhood care programs;

(4) be designed to promote child well-being, early education, social-emotional support and an emphasis on school readiness;

(5) allow for the collection, aggregation and analysis of common data;

(6) be grounded in best practices geared toward optimal health and developmental outcomes; and

(7) establish foundational and continuing education requirements for staff.

B. A licensed early childhood care program shall:

(1) ensure the health and safety of children while they are in care;

(2) comply with the department's background check requirements for all staff members, educators and volunteers in licensed early childhood care programs;

(3) provide positive discipline and guidance;

(4) continually evaluate program performance;

(5) collect data on program activities and outcomes for reporting in accordance with the tier levels that the department has established in rule, pursuant to Section 4 of the Early Childhood Care Accountability Act;

(6) be culturally and linguistically appropriate;

(7) measure the promotion of positive development and appropriate early childhood educational practices, in accordance with the tier levels that the department has established in rule, pursuant to Section 4 of the Early Childhood Care Accountability Act;

(8) ensure that enrolled children are up-to-date with immunizations, in accordance with state law;

(9) train staff on reporting any suspected child abuse and neglect to the department's protective services division and to local authorities;

(10) ensure that the program has established and shared with parents a curriculum statement that supports school readiness; and

(11) follow a curriculum that is aligned with child development functional areas, including the New Mexico early learning guidelines, in accordance with the tier levels that the department has established by rule."

## **Chapter 44 Section 4 Laws 2018**

SECTION 4. A new section of the Children's Code is enacted to read:

"LICENSED EARLY CHILDHOOD CARE PROGRAMS--REPORTING.--  
Beginning December 31, 2019 and annually thereafter, the department shall produce an annual outcomes report for the legislature and the governor that includes:

A. the goals and achieved outcomes of the licensed early childhood care program standards implemented pursuant to the Early Childhood Care Accountability Act; and

B. the following data:

(1) the number of substantiated incidents and substantiated complaints received for each licensed early childhood care program rating level;

(2) the income levels of eligible families statewide receiving early childhood care assistance;

(3) the stated reasons that eligible families have applied for early childhood care assistance;

(4) the percentage of children receiving early childhood care assistance by quality level and provider type;

(5) the average annual enrollment in early childhood care assistance;

(6) the percentage of children participating in early childhood care assistance who have one or more substantiated child abuse cases while participating in early childhood care assistance;

(7) by rating level, any evidence of an increase in school readiness, child development and literacy among children receiving early childhood care assistance;

(8) the number and type of licensed early childhood care programs statewide;

(9) the capacity in licensed early childhood care programs by rating level;

(10) the number of children enrolled in licensed early childhood care programs who participate in the child and adult care food program;

(11) the percentage of children enrolled in licensed early childhood care programs receiving health and developmental screenings or assessments in accordance with department rules; and

(12) the percentage of children enrolled in licensed early childhood care programs who have received health or developmental screenings or assessments as department rules require who are referred to services."

## **Chapter 44 Section 5 Laws 2018**

SECTION 5. A new section of the Children's Code is enacted to read:

"APPLICABILITY.--The provisions of this act shall not be construed to apply to the licensure or regulation of child care assistance, any licensed child care program or licensed exempt child care program."

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House Bill 193, aa

Approved March 1, 2018

## **LAWS 2018, CHAPTER 45**

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROHIBITING THE USE OF SCANBACKS AND INSTANTLY REDEEMABLE COUPONS WITH THE SALE OF ALCOHOLIC MALT BEVERAGES.

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

## **Chapter 45 Section 1 Laws 2018**

SECTION 1. A new section of the Liquor Control Act is enacted to read:

"REDEEMABLE COUPONS PROHIBITED.--

A. A nonretail licensee shall not offer, fund, produce, sponsor, promote, furnish or redeem any type of coupon or scanback.

B. For purposes of this section:

(1) "coupon" means an instantly redeemable coupon issued to a retailer by a manufacturer, importer or wholesaler allowing a specified amount of money to be deducted from the normal price of the particular alcoholic malt beverage product purchased at retail by a consumer during a promotional period;

(2) "licensee" means a person issued a license pursuant to the Liquor Control Act;

(3) "nonretail licensee" means a manufacturer, importer or wholesaler licensee; and

(4) "scanback" means a reimbursement payment made to a retailer by a manufacturer, importer or wholesaler based on how many units of the particular alcoholic malt beverage products were sold during a promotional period."

## **Chapter 45 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 258, aa

Approved March 1, 2018

## **LAWS 2018, CHAPTER 46**

AN ACT

RELATING TO TAXATION; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR RETAIL SALES MADE ON THE FIRST SATURDAY AFTER THANKSGIVING BY CERTAIN BUSINESSES.

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

## **Chapter 46 Section 1 Laws 2018**

SECTION 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX--RETAIL SALES BY CERTAIN BUSINESSES.--

A. Prior to July 1, 2020, receipts from the sale at retail of the following types of tangible personal property may be deducted if the sales price of the property is less than five hundred dollars (\$500) and:

(1) the sale occurs during the period beginning at 12:01 a.m. on the first Saturday after Thanksgiving and ending at midnight on the same Saturday;

(2) the sale is for:

(a) an article of clothing or footwear designed to be worn on or about the human body;

(b) accessories, including jewelry, handbags, book bags, backpacks, luggage, wallets, watches and similar items worn or carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing;

(c) sporting goods and camping equipment;

(d) tools used for home improvement, gardening and automotive maintenance and repair;

(e) books, journals, paper, writing instruments, art supplies, greeting cards and postcards;

(f) works of art, including any painting, drawing, print, photograph, sculpture, pottery or ceramics, carving, textile, basketry, artifact, natural specimen, rare book, authors' papers, objects of historical or technical interest or other article of intrinsic cultural value;

(g) floral arrangements and indoor plants;

(h) cosmetics and personal grooming items;

(i) musical instruments;

(j) cookware and small home appliances for residential use;

(k) bedding, towels and bath accessories;

(l) furniture;

(m) a toy or game that is a physical item, product or object clearly intended and designed to be used by children or families in play;

(n) a video game or video game console and any associated accessories for the video game console; or

(o) home electronics such as computers, phones, tablets, stereo equipment and related electronics accessories; and

(3) the sale is made by a seller that carries on a trade or business in New Mexico, maintains its primary place of business in New Mexico, as determined by the department, and employed no more than ten employees at any one time during the previous fiscal year.

B. Receipts for sales made by a business that operates under a franchise agreement may not be deducted pursuant to this section.

C. The purpose of the deduction provided by this section is to increase sales at small local businesses.

D. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

E. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created."

## **Chapter 46 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 79, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 47**

AN ACT

RELATING TO AGRICULTURE; ENACTING THE PECAN BUYERS LICENSURE ACT;  
CREATING AN IN-SHELL PECAN BUYER'S LICENSE; PROVIDING POWERS AND

DUTIES TO THE NEW MEXICO DEPARTMENT OF AGRICULTURE, PEACE OFFICERS AND IN-SHELL PECAN BUYERS; ENACTING PENALTIES FOR VIOLATIONS OF THE PECAN BUYERS LICENSURE ACT.

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

### **Chapter 47 Section 1 Laws 2018**

SECTION 1. SHORT TITLE.--This act may be cited as the "Pecan Buyers Licensure Act".

### **Chapter 47 Section 2 Laws 2018**

SECTION 2. DEFINITIONS.--As used in the Pecan Buyers Licensure Act:

A. "buyer" means a person engaged in the business of purchasing in-shell pecans from a pecan producer and includes an accumulator, buying station, cleaning plant, sheller, dealer or broker;

B. "buying location" means a physical location where a buyer accepts in-shell pecans or a physical location where records relating to the purchase of in-shell pecans are maintained in the event the purchase of in-shell pecans is brokered;

C. "department" means the New Mexico department of agriculture, its staff or authorized agents;

D. "director" means the director of the New Mexico department of agriculture;

E. "in-shell pecan" means a pecan nut with its shell attached;

F. "license" means an in-shell pecan buyer's license issued by the department pursuant to the Pecan Buyers Licensure Act;

G. "peace officer" means a full-time salaried and commissioned or certified law enforcement officer of a police or sheriff's department that is part of or administered by the state or a political subdivision of the state;

H. "pecan producer" means a person who grows pecans; and

I. "personal identification document" means:

(1) a driver's license;

(2) a military identification card; or



(3) a passport issued by the United States or by another country and recognized by the United States.

## **Chapter 47 Section 3 Laws 2018**

### SECTION 3. NEW MEXICO DEPARTMENT OF AGRICULTURE--PEACE OFFICER--POWERS AND DUTIES--RULEMAKING.--

A. The department shall:

(1) establish an in-shell pecan licensing and inspection program directed at buyers of in-shell pecans;

(2) adopt rules to carry out the provisions of the Pecan Buyers Licensure Act; and

(3) collect a reasonable annual licensure fee, established in rule, but not to exceed five hundred dollars (\$500).

B. The department or a peace officer may inspect buying locations and documents related to the buying and selling of in-shell pecans to determine compliance with the Pecan Buyers Licensure Act or adopted rules.

## **Chapter 47 Section 4 Laws 2018**

### SECTION 4. BUYER'S LICENSE REQUIREMENT--APPLICATION.--

A. A license is required for:

(1) the purchase of in-shell pecans by a buyer; and

(2) each buying location used by a buyer.

B. On an annual basis, a buyer shall submit an application to the department for a license. The information required on the application shall be established by department rule.

C. A license shall be valid for a period of twelve months, beginning and ending on a date specified by the department.

## **Chapter 47 Section 5 Laws 2018**

### SECTION 5. DUTIES OF BUYER--RECORD OF PURCHASE.--

A. A buyer shall:

- (1) not purchase in-shell pecans without a valid license;
- (2) comply with the provisions of the Pecan Buyers Licensure Act and adopted rules;
- (3) comply with state and federal requirements related to the movement of in-shell pecans;
- (4) ensure that all of the buyer's employees involved in the purchasing, receiving or shipping of in-shell pecans are trained on the provisions of the Pecan Buyers Licensure Act and adopted rules;
- (5) maintain accurate and legible written records, in a form approved by the department, of the purchase of in-shell pecans that are made in the course of the buyer's business;
- (6) ensure that records of the purchase of in-shell pecans are available for inspection by the department or a peace officer within forty-eight hours of the transaction; and
- (7) retain records of the purchase of in-shell pecans for a minimum of two years.

B. A purchase record shall include the:

- (1) location and date of the purchase;
- (2) name and address of the seller;
- (3) street address or physical location of the tree or the farm from where the in-shell pecans originated;
- (4) identification number contained on the personal identification document of the seller;
- (5) license plate number, make and model of the seller's motor vehicle; and
- (6) total weight of the in-shell pecans purchased.

C. If a licensed buyer purchases in-shell pecans from another licensed buyer, the purchase record shall include the seller's name, address and telephone number, the date of origin of the in-shell pecans and the total weight of the in-shell pecans purchased.

## **Chapter 47 Section 6 Laws 2018**

## SECTION 6. EXEMPTIONS.--

A. The Pecan Buyers Licensure Act does not apply to:

(1) a person whose business is a grocery store, retail store, gas station or other similar operation and that conducts in-shell pecan transactions totaling less than one hundred pounds during any twelve-month period;

(2) transactions involving in-shell pecans for personal consumption totaling less than fifty pounds during any twelve-month period; and

(3) brokers or other individuals, as approved by the department, that are engaged in in-shell pecan transactions, but that do not physically receive pecan shipments within the state.

B. Additional exemptions to the licensing requirements of the Pecan Buyers Licensure Act may be granted by the director.

## **Chapter 47 Section 7 Laws 2018**

### SECTION 7. VIOLATIONS--REVOCATION OF LICENSE--PENALTY.--

A. The department may revoke a license for violations of the Pecan Buyers Licensure Act or the rules or orders promulgated pursuant to that act. The department may deny a subsequent license to a person found to be in violation of the Pecan Buyers Licensure Act.

B. A person who violates the provisions of the Pecan Buyers Licensure Act, or a rule or order promulgated under that act, after a notice to cease and desist, is guilty of a penalty assessment misdemeanor, and the penalty assessment is two hundred fifty dollars (\$250).

C. Each day a person remains in violation of the Pecan Buyers Licensure Act constitutes a separate offense.

## **Chapter 47 Section 8 Laws 2018**

SECTION 8. DISPOSITION OF FEES.--All fees collected pursuant to the Pecan Buyers Licensure Act shall be paid into the treasury of New Mexico state university and credited to the department for administration and enforcement of the Pecan Buyers Licensure Act.

## **Chapter 47 Section 9 Laws 2018**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 217, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 48**

AN ACT

RELATING TO TAXATION; INCREASING THE DISTRIBUTION OF THE LIQUOR EXCISE TAX TO THE LOCAL DWI GRANT FUND; DISTRIBUTING A PORTION OF THAT TAX TO THE DRUG COURT FUND; CREATING THE DRUG COURT FUND; MAKING AN APPROPRIATION.

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

### **Chapter 48 Section 1 Laws 2018**

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--DRUG COURT FUND.--

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

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 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 and shall be used by the municipality only for the provision of alcohol treatment and rehabilitation services for street inebriates.

C. Beginning July 1, 2019, a distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to five percent of the net receipts attributable to the liquor excise tax shall be made to the drug court fund."

### **Chapter 48 Section 2 Laws 2018**

SECTION 2. DRUG COURT FUND--CREATED.--The "drug court fund" is created in the state treasury. The fund consists of appropriations, distributions, gifts,

grants, donations and bequests made to the fund and income from investment of the fund. The administrative office of the courts shall administer money in the fund to offset client service costs of drug court programs, consistent with standards approved by the supreme court. Money in the fund shall be expended on warrants of the secretary of finance and administration pursuant to vouchers signed by the director of the administrative office of the courts. Balances in the fund shall not revert to the general fund at the end of a fiscal year.

## **Chapter 48 Section 3 Laws 2018**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 35, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 49**

AN ACT

RELATING TO MUNICIPALITIES; PROVIDING GROUNDS FOR THE RECALL ELECTION OF ELECTIVE OFFICERS IN COMMISSION-MANAGER MUNICIPALITIES; REQUIRING A DETERMINATION BY THE DISTRICT COURT THAT PROBABLE CAUSE EXISTS FOR THE GROUNDS FOR RECALL; MAKING TECHNICAL AND CONFORMING CHANGES.

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

## **Chapter 49 Section 1 Laws 2018**

SECTION 1. Section 3-14-16 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-16) is amended to read:

"3-14-16. COMMISSION-MANAGER--RECALL--ELECTION--BALLOT--EFFECT--FILLING VACANCIES.--

A. In any commission-manager municipality, any elective officer is subject to a recall election for malfeasance or misfeasance in office or a violation of the oath of office based upon acts or failures to act occurring during the current term of the official sought to be recalled.

B. The factual allegations that support the grounds for recall shall be presented in a complaint to the district court for the county in which the recall is proposed to be conducted. The district court shall hold a hearing to determine if probable cause exists for the grounds for recall. The proponents of the recall effort and the officer sought to be recalled shall be given an opportunity to present evidence at the hearing. In making its determination, the district court shall only consider evidence of acts or failures to act occurring during the current term of the official sought to be recalled.

C. If the district court determines that probable cause for the recall exists, the recall petition may be circulated. The recall petition shall cite the grounds of malfeasance or misfeasance in office or violation of the oath of office by the official concerned. The cited grounds shall be based upon acts or failures to act occurring during the current term of the official sought to be recalled. The grounds for recall in the petition shall be as found by the district court in its finding of probable cause. The recall petition shall be signed by the qualified electors in a number more than twenty percent of the average number of voters who voted at the previous four regular municipal elections or more than twenty percent of the number of voters who voted at the previous regular municipal election, whichever is the greater.

D. The municipal clerk shall verify that the persons who signed the petition are qualified electors in the district and that the petition contains the proper number of signatures. If the municipal clerk has so verified the petition, the commission shall call a special election unless the regular municipal election occurs within sixty days, in which case the qualified electors shall vote on the recall at the regular election. In either case, there shall be a special ballot containing the name of the officer, the title of the office and the dates of the beginning and termination of the officer's official term. Below the name of the officer shall be two phrases, "For the recall" and "Against the recall", one below the other with a space after each for placing a cross where desired. If a majority of the votes cast favor recall and the number of votes cast favoring a recall are equal to or more than the number the officer received when the officer was a candidate for office, the officer who is the subject of recall is recalled from the office and the office in question is declared vacant.

E. If an officer is recalled, the officer shall not be eligible for reelection until the term for which the officer was originally elected has expired.

F. If the recall election results in a failure to secure the votes necessary to recall, the officer in question shall not be subject again to recall until six months have elapsed from the date the previous recall election was held.

G. A vacancy created by a recall election shall be filled in the same manner as other vacancies on the commission are filled. If all commissioners are recalled at the same election, the municipal clerk or, if there is no municipal clerk, the district court shall, within three days, call an election as provided in Section 3-14-8 NMSA 1978 for the election of five commissioners."

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House Bill 49, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 50**

AN ACT

RELATING TO TAXATION; PROVIDING PROCEDURES FOR THE SALE OF ABANDONED REAL PROPERTY FOR WHICH DELINQUENT PROPERTY TAX IS DUE; DEFINING "ABANDONED REAL PROPERTY" IN THE PROPERTY TAX CODE.

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

### **Chapter 50 Section 1 Laws 2018**

SECTION 1. Section 7-35-2 NMSA 1978 (being Laws 1973, Chapter 258, Section 2, as amended by Laws 1994, Chapter 9, Section 1 and by Laws 1994, Chapter 9, Section 2) is amended to read:

"7-35-2. DEFINITIONS.--As used in the Property Tax Code:

A. "abandoned real property" means real property:

(1) that is part of a subdivision where the subdivision has a minimum of five thousand lots in delinquency on the department's delinquent property tax list as prepared by the appropriate county treasurer pursuant to Section 7-38-61 NMSA 1978 as of January 1, 2019;

(2) of which the subdivided lots are vacant;

(3) that is part of a subdivision plotted on or before 1980;

(4) the property taxes, penalties and interest of which are delinquent for at least ten years; and

(5) that does not include property with existing homes, businesses or other habitable structures;

B. "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "director" means the secretary;

D. "livestock" means cattle, buffalo, horses, mules, sheep, goats, swine, ratites and other domestic animals useful to humans;

E. "manufactured home" means a manufactured home as that term is defined in Section 66-1-4.11 NMSA 1978;

F. "net taxable value" means the value of property upon which the tax is imposed and is determined by deducting from taxable value the amount of any exemption authorized by the Property Tax Code;

G. "nonresidential property" means property that is not residential property;

H. "owner" means the person in whom is vested any title to property;

I. "person" means an individual or any other legal entity;

J. "property" means tangible property, real or personal;

K. "residential property" means property consisting of one or more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facilitate the use of the dwellings and appurtenant structures. As used in this subsection, "dwellings" includes both manufactured homes and other structures when used primarily for permanent human habitation, but the term does not include structures when used primarily for temporary or transient human habitation such as hotels, motels and similar structures;

L. "secretary" means the secretary of taxation and revenue and, except for purposes of Section 7-35-6 NMSA 1978 and Paragraphs (1) and (2) of Subsection B of Section 9-11-6.2 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

M. "tax" means the property tax imposed under the Property Tax Code;

N. "taxable value" means the value of property determined by applying the tax ratio to the value of the property determined for property taxation purposes;

O. "tax rate" means the rate of the tax expressed in terms of dollars per thousand dollars of net taxable value of property;

P. "tax ratio" means the percentage established under the Property Tax Code that is applied to the value of property determined for property taxation purposes in order to derive taxable value; and

Q. "tax year" means the calendar year."



## Chapter 50 Section 2 Laws 2018

SECTION 2. Section 7-38-66 NMSA 1978 (being Laws 1973, Chapter 258, Section 106, as amended by Laws 2001, Chapter 253, Section 2 and by Laws 2001, Chapter 254, Section 2) is amended to read:

"7-38-66. SALE OF REAL PROPERTY FOR DELINQUENT TAXES--NOTICE OF SALE.--

A. At least twenty days but not more than thirty days before the date of the sale for delinquent taxes, the department shall notify by certified mail, return receipt requested, and, for abandoned real property, an additional letter sent by first class mail, to the address as shown on the most recent property tax schedule, each property owner whose real property will be sold that the owner's real property will be sold to satisfy delinquent taxes, unless:

(1) all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date of the sale, or, for abandoned real property being sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website; or

(2) an installment agreement for payment of all delinquent taxes, penalties, interest and costs due is entered into with the department by 5:00 p.m. of the day prior to the date of sale in accordance with Section 7-38-68 NMSA 1978, or, for abandoned real property sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, an installment agreement for payment of all delinquent taxes, penalties, interest and costs due is entered into with the department in accordance with Section 7-38-68 NMSA 1978 by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website.

B. The notice shall also:

(1) state the amount of taxes, penalties, interest and costs due;

(2) state the time and place of the sale;

(3) if online, state the date and time the sale begins and expires and the web address of the property tax division's website where the property being sold will be listed;

(4) describe the real property that will be sold;

(5) inform the property owner of the property owner's right to apply for an installment agreement with the department for payment of delinquent taxes, penalties, interest and costs, in accordance with Section 7-38-68 NMSA 1978;

(6) provide information on the name and phone number of the individual in the department the owner can contact to arrange for an installment agreement in accordance with Section 7-38-68 NMSA 1978; and

(7) contain any other information that the department may require by rule.

C. At the same time a notice required by Subsection A of this section is sent to the owner of the real property, a notice containing the information set out in Subsection B of this section shall also be sent to each person holding a lien or security interest of record in the property if an address for such person is reasonably ascertainable through a search of the property records of the county in which the property is located.

D. Failure of the department to mail a required notice by certified mail, return receipt requested, shall invalidate the sale; provided, however, that return to the department of the notice of the return receipt shall be deemed adequate notice and shall not invalidate the sale.

E. Proof that all delinquent taxes, penalties, interest and costs had been paid by 5:00 p.m. of the day prior to the date of sale shall prevent or invalidate the sale.

F. For abandoned real property sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, proof that the owner has paid all delinquent taxes, penalties, interest and costs due by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website shall invalidate the sale.

G. Proof that the owner has, by 5:00 p.m. of the day prior to the date of sale, entered into an installment agreement to pay all delinquent taxes, penalties, interest and costs as provided in Section 7-38-68 NMSA 1978 and that timely payments under such agreement are being made shall prevent or invalidate the sale.

H. For abandoned real property sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, proof that the owner has entered into an installment agreement with the department for payment of all delinquent taxes, penalties, interest and costs due in accordance with Section 7-38-68 NMSA 1978 by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website shall invalidate the sale.

I. The time requirements of this section are subject to the provisions of Section 7-38-83 NMSA 1978."

## Chapter 50 Section 3 Laws 2018

SECTION 3. A new Section 7-38-67.1 NMSA 1978 is enacted to read:

"7-38-67.1. SALE OF ABANDONED REAL PROPERTY--NOTICE OF SALE--REQUIREMENTS.--

A. Abandoned real property may be sold by special sale.

B. Notice of the sale shall be published in a local newspaper within the county where the abandoned real property is located, or in a newspaper published in a county contiguous to or near the county in which the abandoned real property is located, the week immediately preceding the week of the sale. In cases where abandoned real property is offered for sale via an online platform pursuant to Subsection D of this section, the notice of the sale shall be published in a local newspaper within the county where the abandoned real property is located, or in a newspaper published in a county contiguous to or near the county in which the abandoned real property is located, the week immediately preceding the week of the beginning of the continuous online sale. Online sales notices pursuant to this section shall also be published on the property tax division's website. The notice shall:

(1) state the time and place of the sale;

(2) if the sale is made via an online sale pursuant to Subsection D of this section, state the date and time the sale will begin and expire and the property tax division's website where the property being sold will be listed;

(3) include the name of the subdivision in which the abandoned real property is located;

(4) state the total minimum bid; and

(5) provide the phone number of the property tax division and the web address where interested buyers may obtain copies of the list of properties to be sold.

C. Abandoned real property may be sold at public auction either by the department or an auctioneer hired by the department. The auction shall be held in the county where the abandoned real property is located at a time and place designated by the department.

D. Abandoned real property may be offered for sale via an online platform on the property tax division's website, and notice shall be given pursuant to Subsection B of this section. The sales of abandoned real property listed on the property tax division's website may be continuous until December 31 of the tax year in which the abandoned real property is offered for sale. For subsequent tax years, notice shall be

given pursuant to Subsection B of this section before the abandoned real property listed on the property tax division's website can be reoffered for sale.

E. Before the sale, the department shall determine a minimum sale price for the abandoned real property. In determining the minimum price, the department shall consider the amount of all delinquent taxes, penalties, interest and costs for which the abandoned real property is being sold. If the department determines the total amount due is in excess of the sale price that could reasonably be made through public auction, the property tax division may offer the abandoned real property for less than the total amount of delinquent taxes, penalties, interest and costs due.

F. A sale properly made under the authority of and in accordance with the requirements of this section constitutes full payment of all delinquent taxes, penalties and interest that are a lien pursuant to Section 7-38-48 NMSA 1978 against the abandoned real property at the time of sale, and the sale extinguishes the lien.

G. Payment shall be made in full by the close of the public auction before an offer may be deemed accepted by the department. For abandoned real property sold via an online platform pursuant to Subsection D of this section, payment shall be made in full within one business day of the bid being accepted by the department before an offer may be deemed accepted by the department. Receipt of a bid from a buyer by the department is not acceptance of the bid by the department. The department shall notify the buyer whose bid is accepted by the department, and the one business day payment requirement begins at the time the buyer received notice of acceptance to the buyer whose bid was accepted by the department. Notice of acceptance of a bid sent to a buyer by the department may be sent via email. Failure of a buyer whose bid was accepted by the department and to whom notice was sent by the department to pay the full sales price within one business day invalidates the sale and the property can be reoffered for sale unless the buyer receives an extension to make payment from the department. Requests for time extensions and approvals of time extensions can be made via email.

H. The board of trustees of a community land grant-merced governed pursuant to the provisions of Chapter 49, Article 1 NMSA 1978, or by statutes specific to the named land grant-merced, shall be allowed to exercise the right of first offer to purchase the abandoned real property if:

(1) the abandoned real property offered for sale is situated within the boundaries of that land grant-merced as shown in the United States patent to the grant;

(2) the offer covers all taxes, penalties, interest and costs due on the abandoned real property unless the minimum sales price is reduced below total amounts owed pursuant to Subsection E of this section; and

(3) the land becomes part of the common lands of the land grant-merced.

I. In the event that there is a competing interest in the abandoned real property by prior landholders, such as land grant owners, pueblos or nontaxable entities, the secretary shall determine who has the prevailing right of first offer.

J. The time requirements of this section are subject to the provisions of Section 7-38-83 NMSA 1978.

K. As used in this section, "right of first offer" means the department is obliged to undergo exclusive good faith negotiations with the rights holder before offering abandoned real property for sale to the public."

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HBIC/House Bill 88

Approved March 2, 2018

## **LAWS 2018, CHAPTER 51**

AN ACT

RELATING TO TAXATION; CREATING AN OPTIONAL DESIGNATION FOR A PERSONAL INCOME TAX CONTRIBUTION FOR THE NEW MEXICO HOUSING TRUST FUND.

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

### **Chapter 51 Section 1 Laws 2018**

SECTION 1. A new section of the Income Tax Act is enacted to read:

"OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTION--NEW MEXICO HOUSING TRUST FUND.--

A. Any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the New Mexico housing trust fund. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"New Mexico Housing Trust Fund - Check [ ] if you wish to contribute a part or all of your tax refund to the New Mexico Housing Trust Fund for affordable housing programs. 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 51 Section 2 Laws 2018**

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2018.

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House Bill 140

Approved March 2, 2018

## **LAWS 2018, CHAPTER 52**

AN ACT

RELATING TO THE NATIVE AMERICAN VETERANS' INCOME TAX SETTLEMENT FUND; REMOVING THE TIME LIMIT FOR FILING AN APPLICATION FOR A SETTLEMENT CLAIM.

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

## **Chapter 52 Section 1 Laws 2018**

SECTION 1. Section 7-2H-3 NMSA 1978 (being Laws 2008, Chapter 89, Section 3, as amended) is amended to read:

"7-2H-3. NATIVE AMERICAN VETERANS' INCOME TAX SETTLEMENT FUND--CREATED--PURPOSE--APPROPRIATIONS.--

A. The "Native American veterans' income tax settlement fund" is created as a nonreverting fund in the state treasury and shall be administered by the taxation and revenue department. The fund shall consist of money that is appropriated or donated or that otherwise accrues to the fund.

B. The taxation and revenue department shall establish procedures and adopt rules as required to administer the fund and to make settlement payments from the fund as approved by the secretary of taxation and revenue.

C. Money in the fund is appropriated to the taxation and revenue department to make settlement payments to Native American veterans who were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty and had state personal income taxes withheld from their military income, or to their heirs pursuant to applicable law. Settlement payments shall include the amount of state personal income taxes withheld from eligible Native American veterans that have not been previously refunded to the veterans and interest on the amount withheld from the date of withholding computed on a daily basis at the rate specified for individuals pursuant to Section 6621 of the Internal Revenue Code of 1986. No settlement payments shall be made for any taxable year for which a refund claim may be timely filed with the taxation and revenue department. Money shall be disbursed from the fund only on warrant of the secretary of finance and administration upon vouchers signed by the secretary of taxation and revenue 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 to the general fund.

D. Beginning in fiscal year 2010 and in subsequent fiscal years, not more than five percent of the fund is appropriated from the fund to the taxation and revenue department for expenditure in the fiscal year in which it is appropriated to administer the fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the Native American veterans' income tax settlement fund.

E. Beginning in fiscal year 2010 and in subsequent fiscal years, not more than five percent of the fund is appropriated from the fund to the veterans' services department for expenditure in the fiscal year in which it is appropriated to assist in outreach and public relations and in determining eligibility for settlement payments. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the Native American veterans' income tax settlement fund."

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House Bill 149

Approved March 2, 2018

## **LAWS 2018, CHAPTER 53**

### **AN ACT**

RELATING TO GOVERNMENT PURCHASES; AMENDING THE ALTERNATIVE FUEL ACQUISITION ACT; DEFINING THE TYPES OF VEHICLES THAT ARE ELIGIBLE FOR PURCHASE THROUGH THE ALTERNATIVE FUEL ACQUISITION LOAN FUND; REDUCING THE INTEREST RATE ON LOANS FROM THE FUND TO ZERO.

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

## **Chapter 53 Section 1 Laws 2018**

SECTION 1. Section 13-1B-2 NMSA 1978 (being Laws 1992, Chapter 58, Section 2, as amended) is amended to read:

"13-1B-2. DEFINITIONS.--As used in the Alternative Fuel Acquisition Act:

A. "alternative fuel" means natural gas, liquefied petroleum gas, electricity, hydrogen, a fuel mixture containing not less than eighty-five percent ethanol or methanol, a fuel mixture containing not less than twenty percent vegetable oil or a water-phased hydrocarbon fuel emulsion consisting of a hydrocarbon base and water in an amount not less than twenty percent by volume of the total water-phased fuel emulsion;

B. "conventional fuel" means gasoline or diesel fuel;

C. "department" means the energy, minerals and natural resources department;

D. "fund" means the alternative fuel acquisition loan fund;

E. "heavy duty vehicle" means a vehicle weighing more than twenty-six thousand pounds;

F. "light duty vehicle" means a vehicle weighing not more than fourteen thousand pounds;

G. "medium duty vehicle" means a vehicle weighing more than fourteen thousand pounds but not more than twenty-six thousand pounds; and

H. "political subdivision" means a county, municipality or school district."

## **Chapter 53 Section 2 Laws 2018**

SECTION 2. Section 13-1B-3 NMSA 1978 (being Laws 1992, Chapter 58, Section 3, as amended) is amended to read:

"13-1B-3. ACQUISITION OF VEHICLES--EXEMPTIONS.--

A. Seventy-five percent of light duty vehicles acquired in fiscal year 2003 and each fiscal year thereafter by the agencies and departments of state government and educational institutions shall be vehicles that:

(1) meet or exceed the corporate average fuel economy standards for vehicles issued by the national highway transportation safety administration of the United States department of transportation;



(2) are hybrid vehicles;

(3) are capable of operating on alternative fuel with either bi-fuel capability or dedicated engine configurations; or

(4) are plug-in electric vehicles.

B. Certified law enforcement pursuit vehicles and emergency light duty vehicles are exempt from the provisions of the Alternative Fuel Acquisition Act. The department may exempt additional light duty vehicles from the requirements of Subsection A of this section upon demonstration by the acquiring entity that:

(1) a vehicle that meets the corporate average fuel economy standards is not suitable for its intended use or is unavailable from an original vehicle manufacturer;

(2) alternative fuels are unavailable at a cost within fifteen percent of the cost of conventional fuel within the normal driving range of these vehicles; or

(3) a vehicle suitable for its intended use and capable of operating on alternative fuel or a gas-electric hybrid is not available from an original equipment manufacturer.

C. Equipment and installation procedures shall conform to all applicable state and federal safety and environmental regulations and standards.

D. The agencies and departments of state government, political subdivisions and educational institutions may submit loan applications to the department to acquire loans to facilitate the acquisition of their vehicles.

E. Agencies and departments of state government and educational institutions shall provide to the department by September 1, 2003 and by September 1 of each year thereafter the total number of light duty vehicles acquired in the preceding fiscal year and the number of those light duty vehicles that meet the requirements of Paragraphs (1) through (4) of Subsection A of this section and the make, model, fuel or power type of and corporate average fuel economy rating for each of those vehicles."

## **Chapter 53 Section 3 Laws 2018**

SECTION 3. Section 13-1B-5 NMSA 1978 (being Laws 1992, Chapter 58, Section 5, as amended) is amended to read:

"13-1B-5. REVOLVING LOAN FUND--LOANS MADE FROM THE FUND.--

A. Money available in the fund may be loaned by the department to reimburse the expenses incurred in acquiring vehicles of the agencies and departments

of state government, political subdivisions and educational institutions from gasoline to alternative fuel.

B. A state agency or department, a political subdivision or an educational institution to which a loan is made shall demonstrate the ability to pay back the loan within seven years of the date that its vehicles are acquired.

C. Use of the fund shall be limited to purchases of light duty, medium duty or heavy duty vehicles that use natural gas, liquified petroleum gas, electricity or hydrogen.

D. The maximum amount loaned to acquire a vehicle shall not exceed the actual incremental cost of acquiring the vehicle or:

- (1) five thousand dollars (\$5,000) for a light duty vehicle;
- (2) ten thousand dollars (\$10,000) for a medium duty vehicle; or
- (3) twenty thousand dollars (\$20,000) for a heavy duty vehicle."

## **Chapter 53 Section 4 Laws 2018**

SECTION 4. Section 13-1B-7 NMSA 1978 (being Laws 1992, Chapter 58, Section 7, as amended) is amended to read:

"13-1B-7. REPAYMENT OF LOANS TO THE FUND.--

A. When developing the repayment schedule for loans from the fund, the department shall consider the projected savings from alternative fuel.

B. The department of finance and administration shall collect and account for the loans made from the fund, and it shall have custody of all of the original loan documents, including all notes and contracts evidencing the amounts owed to the fund.

C. Loans shall be made for a period of time not to exceed seven years, with an annual interest rate of zero percent. A loan shall be repaid in equal annual installments, with the first annual installment due within one year of the date on which the loan is issued.

D. Loans shall be made only for eligible items."

## **Chapter 53 Section 5 Laws 2018**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 165

Approved March 2, 2018

## **LAWS 2018, CHAPTER 54**

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING THE TIME THAT CONVICTIONS ARE KEPT ON RECORD FOR HOLDERS OF COMMERCIAL DRIVER'S LICENSES TO BE DOUBLE THE TIME REQUIRED FOR OTHER DRIVER'S LICENSE HOLDERS.

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

### **Chapter 54 Section 1 Laws 2018**

SECTION 1. Section 66-8-135 NMSA 1978 (being Laws 1978, Chapter 35, Section 543, as amended) is amended to read:

"66-8-135. RECORD OF TRAFFIC CASES.--

A. Every trial court judge shall keep a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in the judge's court or its traffic violations bureau and every official action and disposition of the charge by that court.

B. The court shall notify the department if a defendant fails to appear on a charge of violating the Motor Vehicle Code or other law or ordinance relating to motor vehicles.

C. Within ten days of the later of entry of a final disposition on a conviction for violation of the Motor Vehicle Code or other law or ordinance relating to motor vehicles or the final decision of any higher court that reviews the matter and from which no appeal or review is successfully taken, every trial court judge, including children's court judges, or the clerk of the court in which the entry of the final disposition occurred shall prepare and forward to the department an abstract of the record containing:

(1) the name and address of the defendant;

(2) the specific section number and common name of the provision of the NMSA 1978 or local law, ordinance or regulation under which the defendant was tried;

(3) the plea, finding of the court and disposition of the charge, including a fine or jail sentence or both;

(4) total costs assessed to the defendant;

(5) the date of the hearing;

(6) the court's name and address;

(7) whether the defendant was a first or subsequent offender; and

(8) whether the defendant was represented by counsel or waived the right to counsel and, if represented, the name and address of counsel.

D. The abstract of record prepared and forwarded under Subsection C of this section shall be certified as correct by the person required to prepare it. With the prior approval of the department, the information required by Subsection C of this section may be transmitted electronically to the department. A report need not be made of any disposition of a charge of illegal parking or standing of a vehicle except when the uniform traffic citation is used.

E. When the uniform traffic citation is used, the court shall provide the information required by Subsection C of this section in the manner prescribed by the department.

F. Every court of record shall also forward a like report to the department upon conviction of any person of any felony if a motor vehicle was used in the commission. With the prior approval of the department, the information required by this subsection may be submitted electronically to the department. The report shall be forwarded to the department within ten days of the final decision of the court or of any higher court that reviews the matter and from which the decision of no appeal or review is successfully taken.

G. The willful failure or refusal of any judicial officer to comply with this section is misconduct in office and grounds for removal.

H. Except as set forth in Subsection I of this section for records of a person holding a commercial driver's license, the department shall keep records received on motorists licensed in this state at its main office. Records showing a record of conviction by a court of law shall be open to public inspection during business hours for three years from the date of their receipt, after which they shall be destroyed by the department, except for records of convictions under Sections 66-8-101 through 66-8-112 NMSA 1978, which may not be destroyed until fifty-five years from the date of their receipt. Any record received on a motorist licensed in another state or country shall be forwarded to the licensing authority of that state or country.

I. The department shall keep records received on a person holding a commercial driver's license or an individual driving a commercial motor vehicle who was required to have a commercial driver's license but was driving a commercial motor vehicle without the appropriate license in its main office. Records showing a record of conviction by a court of law shall be open to public inspection during business hours for six years from the date of their receipt, except for a record of conviction required to be retained for a longer period under federal law, which shall be retained as provided in federal law, or a record of conviction under Sections 66-8-101 through 66-8-112, which shall be retained for fifty-five years from the date of receipt. After the department has held a record of a conviction for the time period required under this subsection, that record shall be destroyed. Any record received on a person holding a commercial driver's license licensed in another state or country shall be forwarded to the licensing authority of that state or country."

## **Chapter 54 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 182, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 55**

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; AMENDING THE PUBLIC SCHOOL FINANCE ACT TO ESTABLISH A PHASED-IN TEACHER COST INDEX; REQUIRING A STUDY TO EVALUATE THE INDEX'S SUFFICIENCY; MAKING A PHASED-IN ADJUSTMENT TO THE AT-RISK INDEX; REPEALING THE SECTION OF LAW CREATING THE FUNDING FORMULA STUDY TASK FORCE.

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

## **Chapter 55 Section 1 Laws 2018**

SECTION 1. Section 22-8-2 NMSA 1978 (being Laws 1978, Chapter 128, Section 3, as amended) is amended to read:

"22-8-2. DEFINITIONS.--As used in the Public School Finance Act:

A. "ADM" or "MEM" means membership;

B. "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include students in need of early intervention and habitual truants the school district is required to intervene with and keep in an educational setting as provided in Section 22-12-9 NMSA 1978;

C. "basic program ADM" or "basic program MEM" means the MEM of qualified students but excludes the full-time-equivalent MEM in early childhood education and three- and four-year-old students receiving special education services;

D. "cost differential factor" is the numerical expression of the ratio of the cost of a particular segment of the school program to the cost of the basic program in grades four through six;

E. "department" or "division" means the public education department;

F. "early childhood education ADM" or "early childhood education MEM" means the full-time-equivalent MEM of students attending approved early childhood education programs;

G. "full-time-equivalent ADM" or "full-time-equivalent MEM" is that membership calculated by applying to the MEM in an approved public school program the ratio of the number of hours per school day devoted to the program to six hours or the number of hours per school week devoted to the program to thirty hours;

H. "operating budget" means the annual financial plan required to be submitted by a local school board or governing body of a state-chartered charter school;

I. "program cost" is the product of the total number of program units to which a school district is entitled multiplied by the dollar value per program unit established by the legislature;

J. "program element" is that component of a public school system to which a cost differential factor is applied to determine the number of program units to which a school district is entitled, including MEM, full-time-equivalent MEM, teacher, classroom or public school;

K. "program unit" is the product of the program element multiplied by the applicable cost differential factor;

L. "public money" or "public funds" means all money from public or private sources received by a school district or state-chartered charter school or officer or employee of a school district or state-chartered charter school for public use;

M. "qualified student" means a public school student who:

(1) has not graduated from high school;

(2) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and

(3) in terms of age:

(a) is at least five years of age prior to 12:01 a.m. on September 1 of the school year;

(b) is at least three years of age at any time during the school year and is receiving special education services pursuant to rules of the department; or

(c) has not reached the student's twenty-second birthday on the first day of the school year and is receiving special education services pursuant to rules of the department;

N. "staffing cost multiplier" means:

(1) for fiscal year 2019, the instructional staff training and experience index;

(2) for fiscal year 2020, the weighted average of the instructional staff training and experience index at seventy-five percent and the teacher cost index at twenty-five percent;

(3) for fiscal year 2021, the weighted average of the instructional staff training and experience index at fifty percent and the teacher cost index at fifty percent;

(4) for fiscal year 2022, the weighted average of the instructional staff training and experience index at twenty-five percent and the teacher cost index at seventy-five percent; and

(5) for fiscal year 2023 and subsequent fiscal years, the teacher cost index; and

O. "state superintendent" means the secretary of public education or the secretary's designee."

## **Chapter 55 Section 2 Laws 2018**

SECTION 2. 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. 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 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 its first year of operation, a charter school's budget shall be based on the projected number of program units generated by the school and its students using the at-risk index and the staffing cost multiplier of the school district in which the school is located, and the school's budget shall be adjusted using the qualified MEM on the first reporting date of the current school year. For its second and subsequent fiscal years of operation, a charter school's budget shall be based on the number of program units generated by the school and its students using the average of the MEM on the second and third reporting dates of the prior year, the at-risk index of the school district in which the school is located and the school's staffing cost multiplier."

## **Chapter 55 Section 3 Laws 2018**

SECTION 3. 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. For fiscal year 2019, 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 staffing cost multiplier and adding the program units itemized as Paragraphs (7) through (14) in this subsection. For fiscal year 2020 and subsequent fiscal years, the total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) and (2) in this subsection by the staffing



cost multiplier and adding the program units itemized as Paragraphs (3) through (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 55 Section 4 Laws 2018**

SECTION 4. Section 22-8-23.3 NMSA 1978 (being Laws 1997, Chapter 40, Section 7, as amended) is amended to read:

"22-8-23.3. AT-RISK PROGRAM UNITS.--

A. A school district is eligible for additional program units if it establishes within its department-approved educational plan identified services to assist students to reach their full academic potential. A school district receiving additional at-risk program units shall include a report of specified services implemented to improve the academic success of at-risk students. The report shall identify the ways in which the school district and individual schools use funding generated through the at-risk index and the intended outcomes. For purposes of this section, "at-risk student" means a student who meets the criteria to be included in the calculation of the three-year average total rate in Subsection B of this section. The number of additional units to which a school district is entitled under this section is computed in the following manner:

$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

where MEM is equal to the total district membership, including early childhood education, full-time-equivalent membership and special education membership and where the at-risk index is calculated in the following manner:

(1) for fiscal year 2019,

Three-Year Average Total Rate  $\times$  0.130 = At-Risk Index;

(2) for fiscal year 2020,

Three-Year Average Total Rate  $\times$  0.140 = At-Risk Index; and

(3) for fiscal year 2021 and subsequent fiscal years,

Three-Year Average Total Rate  $\times$  0.150 = At-Risk Index.

B. To calculate the three-year average total rate, the department shall compute a three-year average of the school district's percentage of membership used to determine its Title I allocation, a three-year average of the percentage of membership classified as English language learners using criteria established by the federal office of civil rights and a three-year average of the percentage of student mobility. The department shall then add the three-year average rates. The number obtained from this calculation is the three-year average total rate.

C. The department shall recalculate the at-risk index for each school district every year."

## Chapter 55 Section 5 Laws 2018

SECTION 5. A new section of the Public School Finance Act is enacted to read:

"TEACHER COST INDEX--LICENSURE-EXPERIENCE FACTOR--REPORT.--

A. The teacher cost index for each school district or charter school shall be calculated in accordance with instructions issued by the department. The teacher cost index for a school district in its first year of operations is 1.0. The teacher cost index for a school district or charter school in its second or subsequent year of operations is the greater of 1.0 or the average of the licensure-experience factors of all full-time-equivalent teachers on the school district's or charter school's payroll in October of that year who are assigned classroom teaching responsibilities. The licensure-experience factor of a teacher corresponds to the teacher's licensure level and years of experience and is as follows:

### Licensure

| <u>Level</u> | <u>Years of Experience</u> |        |        |         |         |
|--------------|----------------------------|--------|--------|---------|---------|
|              | 0 to 2                     | 3 to 5 | 6 to 8 | 9 to 15 | Over 15 |
| 1            | 0.755                      | 0.785  | 0.800  |         |         |
|              | 0.994                      | 1.023  | 1.050  | 1.123   |         |
|              |                            | 1.184  | 1.208  | 1.277.  |         |

B. Beginning in 2021, the department, legislative education study committee staff and legislative finance committee staff shall jointly prepare and submit a report by November 1 of each year to the governor, the legislative education study committee and the legislative finance committee that includes:

(1) data on the relationship of licensure-experience factors to actual teacher costs;

(2) an analysis of the relationships among a teacher's licensure level, educational attainment, years of experience and salary; and

(3) recommended changes, if any, to this section of the Public School Finance Act.

C. As used in this section:

(1) "licensure level" is the teaching licensure level as defined in the School Personnel Act; and

(2) "years of experience" is as defined by department rule."

## **Chapter 55 Section 6 Laws 2018**

SECTION 6. Section 22-8-25 NMSA 1978 (being Laws 1981, Chapter 176, Section 5, as amended) is amended to read:

"22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--  
DEFINITIONS--DETERMINATION OF AMOUNT.--

A. The state equalization guarantee distribution is that amount of money distributed to each school district to ensure that its operating revenue, including its local and federal revenues as defined in this section, is at least equal to the school district's program cost. For state-chartered charter schools, the state equalization guarantee distribution is the difference between the state-chartered charter school's program cost and the two percent withheld by the department for administrative services.

B. "Local revenue", as used in this section, means seventy-five percent of receipts to the school district derived from that amount produced by a school district property tax applied at the rate of fifty cents (\$.50) to each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district and to the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act and upon the assessed value of equipment in the school district as determined under the Oil and Gas Production Equipment Ad Valorem Tax Act.

C. "Federal revenue", as used in this section, means receipts to the school district or state-chartered charter school, excluding amounts that, if taken into account in the computation of the state equalization guarantee distribution, result, under federal law or regulations, in a reduction in or elimination of federal school funding otherwise receivable by the school district, derived from the following:

(1) seventy-five percent of the school district's share of forest reserve funds distributed in accordance with Section 22-8-33 NMSA 1978; and

(2) seventy-five percent of 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".

D. To determine the amount of the state equalization guarantee distribution, the department shall:

(1) calculate the number of program units to which each school district or charter school is entitled using an average of the MEM on the second and third reporting dates of the prior year; or

(2) calculate the number of program units to which a school district or charter school operating under an approved year-round school calendar is entitled using an average of the MEM on appropriate dates established by the department; or

(3) calculate the number of program units to which a school district or charter school with a MEM of two hundred or less is entitled by using an average of the MEM on the second and third reporting dates of the prior year or the fortieth day of the current year, whichever is greater; and

(4) using the results of the calculations in Paragraph (1), (2) or (3) of this subsection and the staffing cost multiplier from the October report of the prior school year, establish a total program cost of the school district or charter school;

(5) for school districts and state-chartered charter schools, calculate the local and federal revenues as defined in this section;

(6) deduct the sum of the calculations made in Paragraph (5) of this subsection from the program cost established in Paragraph (4) of this subsection;

(7) deduct the total amount of guaranteed energy savings contract payments that the department determines will be made to the school district from the public school utility conservation fund during the fiscal year for which the state equalization guarantee distribution is being computed; and

(8) deduct ninety percent of the amount certified for the school district by the department pursuant to the Energy Efficiency and Renewable Energy Bonding Act.

E. Reduction of a school district's state equalization guarantee distribution shall cease when the school district's cumulative reductions equal its proportional share of the cumulative debt service payments necessary to service the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act.

F. The amount of the state equalization guarantee distribution to which a school district is entitled is the balance remaining after the deductions made in Paragraphs (6) through (8) of Subsection D of this section.

G. The state equalization guarantee distribution shall be distributed prior to June 30 of each fiscal year. The calculation shall be based on the local and federal revenues specified in this section received from June 1 of the previous fiscal year through May 31 of the fiscal year for which the state equalization guarantee distribution is being computed. In the event that a school district or charter school has received

more state equalization guarantee funds than its entitlement, a refund shall be made by the school district or charter school to the state general fund."

## **Chapter 55 Section 7 Laws 2018**

### **SECTION 7. TEMPORARY PROVISION--PROTECTION FROM PROGRAM COST REDUCTIONS.--**

A. Using funds appropriated by the legislature for fiscal years 2020 through 2022, the public education department shall supplement a school district's or charter school's calculated program cost in each of those fiscal years:

(1) if, for the fiscal year, the school district's or charter school's calculated program cost is less than its final program cost in the previous fiscal year, not considering any supplement the school district or charter school receives under this subsection; and

(2) as follows:

(a) for fiscal year 2020, in an amount equal to one hundred percent of the reduction attributable to the implementation of this act or the difference between the calculated program cost and the final program cost in the previous fiscal year, whichever is less;

(b) for fiscal year 2021, in an amount equal to seventy-five percent of the reduction attributable to the implementation of this act or the difference between the calculated program cost and the final program cost in the previous fiscal year, whichever is less; and

(c) for fiscal year 2022, in an amount equal to fifty percent of the reduction attributable to the implementation of this act or the difference between the calculated program cost and the final program cost in the previous fiscal year, whichever is less; but

(3) if, in a fiscal year, the appropriation for the purpose of implementing this subsection is insufficient to supplement school districts and charter schools in accordance with Paragraphs (1) and (2) of this subsection, then in an amount equal to the school district's or charter school's prorated share of the total appropriation.

B. On or before February 1 of 2020 through 2022, the public education department shall submit a report to the legislative education study committee and the legislative finance committee that states, regarding the current fiscal year:

(1) the sum needed to supplement school districts and charter schools in accordance with this section;

(2) a list of the school districts and charter schools eligible to receive a supplement in accordance with this section; and

(3) the supplement amount of each of those school districts and charter schools.

### **Chapter 55 Section 8 Laws 2018**

SECTION 8. REPEAL.--Section 22-8-46 NMSA 1978 (being Laws 2005, Chapter 49, Section 1, as amended) is repealed.

### **Chapter 55 Section 9 Laws 2018**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 188, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 56**

AN ACT

RELATING TO TAXATION; PROVIDING FOR ALTERNATIVE EVIDENCE OTHER THAN A NONTAXABLE TRANSACTION CERTIFICATE TO ENTITLE PERSONS TO A DEDUCTION FROM GROSS RECEIPTS; REPEALING AN IRRELEVANT NONTAXABLE TRANSACTION CERTIFICATE SUSPENSION PROVISION; DECLARING AN EMERGENCY.

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

### **Chapter 56 Section 1 Laws 2018**

SECTION 1. Section 7-9-43 NMSA 1978 (being Laws 1966, Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

A. Except as provided in Subsection B of this section, a person may establish entitlement to a deduction from gross receipts allowed pursuant to the Gross Receipts and Compensating Tax Act by obtaining a properly executed nontaxable

transaction certificate from the purchaser. Nontaxable transaction certificates shall contain the information and be in a form prescribed by the department. The department by regulation may deem to be nontaxable transaction certificates documents issued by other states or the multistate tax commission to taxpayers not required to be registered in New Mexico. Only buyers or lessees who have a registration number or have applied for a registration number and have not been refused one under Subsection C of Section 7-1-12 NMSA 1978 shall execute nontaxable transaction certificates issued by the department. If the seller or lessor has been given an identification number for tax purposes by the department, the seller or lessor shall disclose that identification number to the buyer or lessee prior to or upon acceptance of a nontaxable transaction certificate.

B. Except as provided in Subsection C of this section, a person who does not comply with Subsection A of this section may establish entitlement to a deduction from gross receipts by presenting alternative evidence that demonstrates the facts necessary to support entitlement to the deduction, but the burden of proof is on that person. Alternative evidence includes:

(1) invoices or contracts that identify the nature of the transaction;

(2) documentation as to the purchaser's use or disposition of the property or service;

(3) a statement from the purchaser indicating that the purchaser sold or intends to resell the property or service purchased from the seller, either by itself or in combination with other property or services, in the ordinary course of business. The statement from the purchaser shall include:

(a) the seller's name;

(b) the date of the invoice or date of the transaction;

(c) the invoice number or a copy of the invoice;

(d) a copy of the purchase order, if available;

(e) the amount of purchase; and

(f) a description of the property or service purchased or leased; or

(4) any other evidence that demonstrates the facts necessary to establish entitlement to the deduction.

C. Subsection B of this section does not apply to sellers of electricity or fuels that are parties to an agreement with the department pursuant to Section 7-1-21.1



NMSA 1978 regarding the deduction pursuant to Subsection B of Section 7-9-46 NMSA 1978.

D. When a person accepts in good faith a properly executed nontaxable transaction certificate from the purchaser, the properly executed nontaxable transaction certificate shall be conclusive evidence that the proceeds from the transaction are deductible from the person's gross receipts.

E. To exercise the privilege of executing appropriate nontaxable transaction certificates, a buyer or lessee shall apply to the department for permission to execute nontaxable transaction certificates, except with respect to documents issued by other states or the multistate tax commission that the department has deemed to be nontaxable transaction certificates.

F. If a person has accepted in good faith a properly executed nontaxable transaction certificate, but the purchaser has not employed the property or service purchased in the nontaxable manner or has provided materially false or inaccurate information on the nontaxable transaction certificate, the purchaser shall be liable for an amount equal to any tax, penalty and interest that the seller would have been required to pay if the seller had not complied with Subsection A of this section.

G. Any person who knowingly or willfully provides false or inaccurate information on a nontaxable transaction certificate or as alternative evidence provided in support of a claim for a deduction may be subject to prosecution under Sections 7-1-72 and 7-1-73 NMSA 1978."

## **Chapter 56 Section 2 Laws 2018**

SECTION 2. REPEAL.--Section 7-9-44 NMSA 1978 (being Laws 1969, Chapter 144, Section 34, as amended) is repealed.

## **Chapter 56 Section 3 Laws 2018**

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

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HTRC/House Bill 194, w/ec

Approved March 2, 2018

# **LAWS 2018, CHAPTER 57**

AN ACT

RELATING TO INSURANCE; TRANSFERRING THE DUTY TO COLLECT INSURANCE PREMIUM TAXES TO THE TAXATION AND REVENUE DEPARTMENT; CREATING THE INSURANCE PREMIUM TAX ACT; TRANSFERRING FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY AND PROPERTY; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 57 Section 1 Laws 2018**

SECTION 1. SHORT TITLE.--Sections 1 through 10 of this act may be cited as the "Insurance Premium Tax Act".

## **Chapter 57 Section 2 Laws 2018**

SECTION 2. DEFINITIONS.--As used in the Insurance Premium Tax Act:

A. "authorized insurer" means an insurer holding a valid and subsisting certificate of authority to transact insurance in this state;

B. "certificate of authority" means the certificate of authority required to transact insurance in this state pursuant to Section 59A-5-10 NMSA 1978;

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

D. "health maintenance organization" means "health maintenance organization" as that term is used in Chapter 59A, Article 46 NMSA 1978;

E. "home state" means "home state" as that term is used in Chapter 59A, Article 14 NMSA 1978;

F. "insurance" means a contract whereby a person undertakes to pay or indemnify another as to loss from certain specified contingencies or perils, or to pay or grant a specified amount or determinable benefit in connection with ascertainable risk contingencies, or to act as surety;

G. "insurer" includes every person engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance;

H. "nonprofit health care plan" means "health care plan" as that term is used in Chapter 59A, Article 47 NMSA 1978;

I. "secretary" means the secretary of taxation and revenue or the secretary's authorized designee;

J. "state" means, when used in context indicating a jurisdiction other than New Mexico, any state, district, commonwealth, territory or possession of the United States of America;

K. "superintendent" means the superintendent of insurance or the superintendent's duly authorized representative acting in official capacity;

L. "surplus lines broker" means "surplus lines broker" as that term is used in Section 59A, Article 14 NMSA 1978;

M. "taxpayer" means:

(1) an authorized insurer;

(2) an insurer formerly authorized to transact insurance in New Mexico and receiving premiums on policies remaining in force in New Mexico, except an insurer that withdrew from New Mexico prior to March 26, 1955;

(3) a plan operating under provisions of Chapter 59A, Articles 46 through 49 NMSA 1978;

(4) a property bondsman, as that person is defined in Section 59A-51-2 NMSA 1978;

(5) an unauthorized insurer that has assumed a contract or policy of insurance directly or indirectly from an authorized or formerly authorized insurer and is receiving premiums on such policies remaining in force in New Mexico; provided that the ceding insurer does not continue to pay the taxes imposed pursuant to the Insurance Premium Tax Act as to such policy or contract; or

(6) an insured who in this state procures, continues or renews insurance with a nonadmitted insurer pursuant to Section 59A-15-4 NMSA 1978; and

N. "transact insurance" with respect to an insurance contract or a business of insurance includes any of the following, by mail or otherwise or whether or not for profit:

(1) solicitation or inducement;

(2) negotiation;

(3) effectuation of an insurance contract;

(4) transaction of matters subsequent to effectuation and arising out of such a contract;

(5) maintenance in this state of an office or personnel performing any function in furtherance of an insurer's business of insurance; or

(6) maintenance by an insurer of assets in trust in this state for the benefit, security or protection of its policyholders or its policyholders and creditors.

## **Chapter 57 Section 3 Laws 2018**

### **SECTION 3. IMPOSITION AND RATE OF TAX--DENOMINATION OF "PREMIUM TAX" AND "HEALTH INSURANCE PREMIUM SURTAX".--**

A. A tax is imposed at a rate of three and three-thousandths percent of the gross premiums and membership and policy fees received or written by a taxpayer, as reported by March 1 of each year to the department in the appropriate schedule, as determined by the department, of the taxpayer's annual financial statement on insurance or contracts covering risks within the state during the preceding calendar year. The tax shall not be imposed on return premiums, dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks. The tax imposed pursuant to this section may be referred to as the "premium tax".

B. For a taxpayer that is an insurer lawfully organized pursuant to the laws of the Republic of Mexico, the premium tax shall apply solely to the taxpayer's gross premium receipts from insurance policies issued by the taxpayer in New Mexico that cover residents of New Mexico or property or risks principally domiciled or located in New Mexico.

C. With respect to a taxpayer that is a property bondsman, "gross premiums" shall be considered any consideration received as security or surety for a bail bond in connection with a judicial proceeding.

D. The premium tax provided in Subsection A of this section is imposed on the gross premiums received of a surplus lines broker, less return premiums, on surplus lines insurance where New Mexico is the home state of the insured transacted under the surplus lines broker's license, as reported by the surplus lines broker to the department on forms and in the manner prescribed by the department. For purposes of this subsection, "gross premiums" shall include any additional amount charged the insured, including policy fees, risk purchasing group fees and inspection fees; but "premiums" shall not include any additional amount charged the insured for local, state or federal taxes; regulatory authority fees; or examination fees, if any. For a surplus lines policy issued to an insured whose home state is New Mexico and where only a portion of the risk is located in New Mexico, the entire premium tax shall be paid in accordance with this section.

E. In addition to the premium tax, a health insurance premium surtax is imposed at a rate of one percent of the gross health insurance premiums and

membership and policy fees received by the taxpayer on hospital and medical expense incurred insurance or contracts; nonprofit health care plan contracts, excluding dental or vision only contracts; and health maintenance organization subscriber contracts covering health risks within this state during the preceding calendar year. The tax shall not apply to return health insurance premiums, dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks. The surtax imposed pursuant to this section may be referred to as the "health insurance premium surtax".

## **Chapter 57 Section 4 Laws 2018**

### **SECTION 4. RECIPROCITY PROVISION.--**

A. When by or pursuant to the laws of any other state or foreign country or province, any taxes, in the aggregate, are or would be imposed upon New Mexico insurers doing business or that might seek to do business in such state, country or province, or upon the agents or representatives of such insurers or upon brokers or adjusters, which are in excess of such taxes, in the aggregate, directly imposed upon similar insurers, or upon the agents or representatives of such insurers, or upon brokers, or upon adjusters, of such other state, country or province under the statutes of this state, so long as such laws of such other state, country or province continue in force or are so applied, the same taxes, in the aggregate, may be imposed by the secretary upon the insurers, or upon the agents or representatives of such insurers, or upon brokers of such other state, country or province, doing business or seeking to do business in New Mexico. Any tax imposed by any city, county or other political subdivision or agency of such other state, country or province on New Mexico insurers or their agents, representatives, brokers or adjusters shall be deemed to be imposed by such state, country or province within the meaning of this section.

B. This section does not apply as to:

(1) personal income taxes;

(2) ad valorem taxes on real or personal property; or

(3) special purpose obligations or assessments, or assessments under insurance guaranty fund laws, imposed by another state in connection with particular kinds of insurance, except that assessment of insurers for financing of public safety, health and protection purposes is not exempt under this subsection. Except that deductions from premium taxes or other taxes otherwise payable, allowed on account of real or personal property taxes paid shall be taken into consideration by the secretary in determining propriety and extent of reciprocity action under this section.

C. For purposes of this section, domicile of an alien insurer, other than Canadian insurer, shall be that state designated by the insurer in writing filed with the secretary at time of authorization in this state or within six months after the effective

date of the New Mexico Insurance Code, whichever date is the later, and may be any one of the following states:

(1) that in which the insurer was first authorized to transact insurance;

(2) that in which is located the insurer's principal place of business in the United States; or

(3) that in which is held the largest deposit of trusteed assets of the insurer for protection of its policyholders in the United States.

D. If the insurer makes no such designation, its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

E. The domicile of a Canadian insurer shall be Canada and the province of Canada in which its head office is located.

## **Chapter 57 Section 5 Laws 2018**

SECTION 5. EXEMPTIONS.--Exempted from the taxes imposed pursuant to the Insurance Premium Tax Act are:

A. premiums attributable to insurance or contracts purchased by the state or a political subdivision for the state's or political subdivision's active or retired employees;

B. payments received by a health maintenance organization from the federal secretary of health and human services pursuant to a risk-sharing contract issued under the provisions of 42 U.S.C. Section 1395mm(g);

C. any business transacted pursuant to the provisions of the Service Contract Regulation Act;

D. the premiums from each policy or plan issued or offered pursuant to the Minimum Healthcare Protection Act during the first three years of the issuance of the master policy or individual policy; and

E. the money collected and placed in trust pursuant to Section 59A-49-6 NMSA 1978.

## **Chapter 57 Section 6 Laws 2018**

SECTION 6. CREDIT--MEDICAL INSURANCE POOL ASSESSMENTS.--The assessment for any New Mexico medical insurance pool member pursuant to Section 59A-54-10 NMSA 1978 shall be allowed as a fifty percent credit on the tax return for

that member and a seventy-five percent credit on the tax return for that member for the assessments attributable to pool policyholders that receive premiums, in whole or in part, through the federal Ryan White CARE Act, the Ted R. Montoya hemophilia program at the university of New Mexico health sciences center, the children's medical services bureau of the public health division of the department of health or other program receiving state funding or assistance.

## **Chapter 57 Section 7 Laws 2018**

### **SECTION 7. DATE PAYMENT DUE.--**

A. Except as provided in Subsection B of this section, for each calendar quarter, an estimated payment of the premium tax and the health insurance premium surtax shall be made on April 15, July 15, October 15 and the following January 15. The estimated payments shall be equal to at least one-fourth of the payment made during the previous calendar year or one-fifth of the actual payment due for the current calendar year, whichever is greater. The final adjustment for payments due for the prior year shall be made with the return filed on April 15, at which time all taxes for that year are due.

B. Within sixty days after expiration of a calendar quarter, a surplus lines broker shall pay the premium tax due on surplus lines insurance where New Mexico is the home state of the insured transacted under the surplus lines broker's license during such calendar quarter, as reported to the department.

## **Chapter 57 Section 8 Laws 2018**

### **SECTION 8. PENALTY FOR FAILURE TO PAY TAX--SERVING PROCESS-- APPOINTMENT OF SECRETARY AS PROCESS AGENT.--**

A. Every taxpayer and surplus lines broker subject to the provisions of the Insurance Premium Tax Act that fail to file when due any report for taxation, regardless of whether tax is due, or to pay when due any tax as required by the Insurance Premium Tax Act shall be liable to the state for the amount thereof and for penalty of one thousand dollars (\$1,000) for each month or part thereof the taxpayer or surplus lines broker has failed to file the report or pay the tax after demand therefor. Services of process in any action against a person to recover the tax, fee or penalty may be made upon the secretary as attorney for service of process as provided in Subsection B of this section.

B. Service of process against a taxpayer or surplus lines broker for whom the secretary is attorney shall be made by delivering to and leaving with the secretary two copies of the process.

C. Upon such service, the secretary shall forthwith forward by prepaid registered or certified mail, return receipt requested, one of the copies of such process

showing date and time of service on the secretary to the person currently designated by the taxpayer or surplus lines broker to receive the copy as provided in Subsections F through H of this section. Service of process on the taxpayer or surplus lines broker shall be complete upon receipt or, in the event of refusal to accept, the date of such refusal.

D. Process served as provided in this section shall for all purposes constitute valid and binding personal service within this state upon the taxpayer or surplus lines broker. If summons is served under this section, the time within which the taxpayer or surplus lines broker is required to appear shall be extended an additional ten days beyond that otherwise allowed by New Mexico rules of civil procedure.

E. The secretary shall keep a record of the day and time of service of legal process under this section.

F. Before the superintendent of insurance authorizes a taxpayer or surplus lines broker to transact insurance in this state, each taxpayer and surplus lines broker shall appoint the secretary as the taxpayer's or surplus lines broker's attorney to receive service of legal process issued against the taxpayer and surplus lines broker in this state. The appointment shall be on a form as designated and furnished by the department, accompanied by a copy of resolution of the board of directors or like governing body of the taxpayer and surplus lines broker, if applicable, or other appropriate instrument acceptable to the secretary, showing that those who executed the appointment were duly authorized to do so on behalf of the taxpayer and surplus lines broker.

G. The appointment shall be irrevocable, shall bind the taxpayer and surplus lines broker and any successor in interest to the assets or liabilities of the taxpayer or surplus lines broker, as applicable, and shall remain in effect as long as there exists any contract of the taxpayer or surplus lines broker in this state or any obligation of the taxpayer and surplus lines broker arising out of the taxpayer's or surplus lines broker's transactions in this state.

H. The taxpayer or surplus lines broker shall file the appointment with the secretary as part of the taxpayer's or surplus lines broker's application for certificate of authority, together with a designation of the person to whom the secretary shall forward process against the taxpayer or surplus lines broker served upon the secretary. The taxpayer or surplus lines broker may change such designation by a new filing.

## **Chapter 57 Section 9 Laws 2018**

### **SECTION 9. DISTRIBUTION OF PREMIUM TAX--REFUNDS.--**

A. All money received by the department for premium taxes shall be paid daily by the secretary to the state treasurer and credited to the insurance department suspense fund.



B. The department may authorize the refund of money erroneously paid as taxes from the insurance department suspense fund under request for refund made within three years after the erroneous payment. In the case of premium taxes erroneously paid or overpaid in accordance with law, refund may also be requested as a credit against premium taxes due in any annual or quarterly premium tax return filed within three years of the erroneous or excess payment.

C. At the end of every month, after applicable refunds are made pursuant to Subsection B of this section, the state treasurer shall make the following transfers from the balance remaining in the insurance department suspense fund:

(1) to the fire protection fund, that part of the balance derived from property and vehicle insurance business; and

(2) to the general fund, the balance remaining in the insurance department suspense fund.

## **Chapter 57 Section 10 Laws 2018**

SECTION 10. DEPARTMENT SHALL PROMULGATE RULES.--The department shall promulgate rules to carry out the provisions of the Insurance Premium Tax Act.

## **Chapter 57 Section 11 Laws 2018**

SECTION 11. Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10, as amended) is amended to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AGENCIES.--An employee of the department may reveal to:

A. a committee of the legislature for a valid legislative purpose, return information concerning any tax or fee imposed pursuant to the Cigarette Tax Act;

B. the attorney general, return information acquired pursuant to the Cigarette Tax Act for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

C. the commissioner of public lands, return information for use in auditing that pertains to rentals, royalties, fees and other payments due the state under land sale, land lease or other land use contracts;

D. the secretary of human services or the secretary's delegate under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

E. the department of information technology, by electronic media, a database updated quarterly that contains the names, addresses, county of address and taxpayer identification numbers of New Mexico personal income tax filers, but only for the purpose of producing the random jury list for the selection of petit or grand jurors for the state courts pursuant to Section 38-5-3 NMSA 1978;

F. the state courts, the random jury lists produced by the department of information technology under Subsection E of this section;

G. the director of the New Mexico department of agriculture or the director's authorized representative, upon request of the director or representative, the names and addresses of all gasoline or special fuel distributors, wholesalers and retailers;

H. the public regulation commission, return information with respect to the Corporate Income and Franchise Tax Act required to enable the commission to carry out its duties;

I. the state racing commission, return information with respect to the state, municipal and county gross receipts taxes paid by racetracks;

J. the gaming control board, tax returns of license applicants and their affiliates as provided in Subsection E of Section 60-2E-14 NMSA 1978;

K. the director of the workers' compensation administration or to the director's representatives authorized for this purpose, return information to facilitate the identification of taxpayers that are delinquent or noncompliant in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA 1978;

L. the secretary of workforce solutions or the secretary's delegate, return information for use in enforcement of unemployment insurance collections pursuant to the terms of a written reciprocal agreement entered into by the department with the secretary of workforce solutions for exchange of information;

M. the New Mexico finance authority, information with respect to the amount of municipal and county gross receipts taxes collected by municipalities and counties pursuant to any local option municipal or county gross receipts taxes imposed, and information with respect to the amount of governmental gross receipts taxes paid by every agency, institution, instrumentality or political subdivision of the state pursuant to Section 7-9-4.3 NMSA 1978;

N. the secretary of human services or the secretary's delegate; provided that a person who receives the confidential return information on behalf of the human services department shall not reveal the information and shall be subject to the penalties in Section 7-1-76 NMSA 1978 if the person fails to maintain the confidentiality required:

(1) that return information needed for reports required to be made to the federal government concerning the use of federal funds for low-income working families; and

(2) the names and addresses of low-income taxpayers for the limited purpose of outreach to those taxpayers; provided that the human services department shall pay the department for expenses incurred by the department to derive the information requested by the human services department if the information requested is not readily available in reports for which the department's information systems are programmed; and

O. the superintendent of insurance, return information with respect to the premium tax and the health insurance premium surtax."

## **Chapter 57 Section 12 Laws 2018**

SECTION 12. Section 29-13-3 NMSA 1978 (being Laws 1983, Chapter 289, Section 3, as amended) is amended to read:

"29-13-3. DISTRIBUTION OF CERTAIN INSURANCE COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED.--There is created in the state treasury the "law enforcement protection fund". Ten percent of all money received for fees, licenses and penalties from life, general casualty and title insurance business pursuant to the New Mexico Insurance Code shall be paid monthly to the state treasurer and credited to the fund. On or before June 30 of each year, the state treasurer shall transfer to the general fund any balance in the law enforcement protection fund in excess of one hundred thousand dollars (\$100,000) that is not obligated for expenses in that current fiscal year."

## **Chapter 57 Section 13 Laws 2018**

SECTION 13. Section 59A-5-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 100) is amended to read:

"59A-5-33. RECIPROCITY PROVISION.--

A. When by or pursuant to the laws of any other state or foreign country or province, any licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material requirements, obligations, prohibitions or restrictions are or would be imposed upon New Mexico insurers doing business or that might seek to do business in such state, country or province, or upon the agents or representatives of such insurers or upon brokers or adjusters, which are in excess of such licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit or other requirements, obligations, prohibitions or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, or upon brokers, or upon adjusters, of such other state, country, or province under the

statutes of this state, so long as such laws of such other state, country or province continue in force or are so applied, the same licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material requirements, obligations, prohibitions or restrictions of whatever kind may be imposed by the superintendent upon the insurers, or upon the agents or representatives of such insurers, or upon brokers of such other state, country or province, doing business or seeking to do business in New Mexico. Any license or other fee or obligation imposed by any city, county or other political subdivision or agency of such other state, country or province on New Mexico insurers or their agents, representatives, brokers or adjusters shall be deemed to be imposed by such state, country or province within the meaning of this section.

B. This section does not apply to special purpose obligations or assessments, or assessments under insurance guaranty fund laws, imposed by another state in connection with particular kinds of insurance, except that assessment of insurers for financing of public safety, health, and protection purposes is not exempt under this subsection.

C. For purposes of this section, domicile of an alien insurer, other than Canadian insurer, shall be the state designated by the insurer in writing and filed with the superintendent at the time of authorization in this state or within six months after the effective date of the Insurance Code, whichever date is the later, and may be any one of the following states:

(1) that in which the insurer was first authorized to transact insurance;

(2) that in which is located the insurer's principal place of business in the United States; or

(3) that in which is held the largest deposit of trusteed assets of the insurer for protection of its policyholders in the United States.

D. If the insurer makes no designation pursuant to Subsection C of this section, the insurer's domicile shall be deemed to be that state in which is located its principal place of business in the United States.

E. The domicile of a Canadian insurer shall be Canada and the province of Canada in which its head office is located."

## **Chapter 57 Section 14 Laws 2018**

SECTION 14. Section 59A-6-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 103) is amended to read:

"59A-6-3. INSURER MUST PAY TAX ON WITHDRAWAL FROM STATE.--Any insurer holding certificate of authority to transact insurance in New Mexico that ceases

to do business in the state shall thereupon file with the secretary of taxation and revenue a report of its premiums collected to date of such cessation of business that are subject to the premium tax or the health insurance premium surtax and not theretofore reported, and forthwith pay to the secretary the tax thereon and surrender its certificate of authority to the superintendent. Upon receipt, the secretary shall submit a copy of the report to the superintendent and shall certify that all tax obligations have been satisfied by the withdrawing insurer."

## **Chapter 57 Section 15 Laws 2018**

SECTION 15. Section 59A-6-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 104, as amended) is amended to read:

"59A-6-4. PENALTY FOR FAILURE TO PAY FEES.--Every insurer, nonprofit health care plan, health maintenance organization, prepaid dental plan or prearranged funeral plan transacting business in New Mexico that fails to pay when due any fees as required in Chapter 59A, Article 6 NMSA 1978 may be liable to the state for the amount thereof and for penalty of up to one thousand dollars (\$1,000) for each month or part thereof it has failed to pay the fees when due. Services of process in any action against a person to recover the fee or penalty may be made upon the superintendent as attorney for service of process as provided in Section 59A-5-32 NMSA 1978."

## **Chapter 57 Section 16 Laws 2018**

SECTION 16. Section 59A-6-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 105, as amended) is amended to read:

"59A-6-5. DISTRIBUTION OF OFFICE COLLECTIONS.--

A. All money received by the office of superintendent of insurance for fees, licenses and penalties shall be paid daily by the superintendent to the state treasurer and credited to the "insurance department suspense fund" except as provided by the Law Enforcement Protection Fund Act.

B. The superintendent may authorize the refund of money erroneously paid as fees, licenses or penalties from the insurance department suspense fund upon request for refund, if the request is made within one year after the erroneous payment.

C. The "insurance operations fund" is created in the state treasury. The fund shall consist of the distributions made to it pursuant to Subsection D of this section. The legislature shall annually appropriate from the fund to the division those amounts necessary for the division to carry out its responsibilities pursuant to the Insurance Code and other laws. Any balance in the fund at the end of a fiscal year shall revert to the general fund.

D. At the end of every month, after applicable refunds are made pursuant to Subsection B of this section, the state treasurer shall make the following transfers from the balance remaining in the insurance department suspense fund:

(1) to the "fire protection fund", that part of the balance derived from property and vehicle insurance business;

(2) to the insurance operations fund, that part of the balance derived from the fees imposed pursuant to Subsections A and E of Section 59A-6-1 NMSA 1978 other than fees derived from property and vehicle insurance business; and

(3) to the general fund, the balance remaining in the insurance department suspense fund derived from all other kinds of insurance business."

## **Chapter 57 Section 17 Laws 2018**

SECTION 17. Section 59A-6-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 106, as amended) is amended to read:

"59A-6-6. PREEMPTION AND IN LIEU PROVISION.--The state government of New Mexico preempts the field of taxation of insurers, nonprofit health care plans, health maintenance organizations, prepaid dental plans, prearranged funeral plans and insurance producers as such. The payment of the taxes, licenses and fees provided for in the Insurance Premium Tax Act and the Insurance Code shall be in lieu of all other taxes, licenses and fees of every kind now or hereafter imposed by this state or any political subdivision thereof on any of the foregoing specified entities, excepting the regular state, county and city taxes on property located in New Mexico and excepting the income tax on insurance producers. The provisions of this section shall not apply to revenues or receipts that are not directly attributable to persons, entities and activities subject to the provisions of the Insurance Code."

## **Chapter 57 Section 18 Laws 2018**

SECTION 18. Section 59A-15-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 259.1) is amended to read:

"59A-15-4. INSURANCE INDEPENDENTLY PROCURED--DUTY TO REPORT.-

A. Each insured who in this state procures or continues or renews insurance with a nonadmitted insurer on a risk located or to be performed in whole or in part in this state, other than insurance procured through a surplus lines licensee pursuant to Chapter 59A, Article 14 NMSA 1978 shall, within ninety days after the date such insurance was so procured, continued or renewed, file a written report of the same with the superintendent, upon forms prescribed by the superintendent, showing the name and address of the insured or insureds, name and address of the insurer, the

subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor and such additional pertinent information as is reasonably requested by the superintendent.

B. If an independently procured policy covers risks or exposures only partially located or to be performed in this state, the taxes, fees and penalties imposed pursuant to the Insurance Code and the Insurance Premium Tax Act shall be computed on the portion of the premium properly attributable to the risks or exposures located or to be performed in this state and reported to the secretary of taxation and revenue. In no event, however, shall a tax be payable solely because the risk in question, or any portion thereof, is located or to be performed in this state.

C. This section does not abrogate or modify, and shall not be construed or deemed to abrogate or modify, any provision of the Insurance Code.

D. This section does not apply to life insurance, health insurance or annuities."

## **Chapter 57 Section 19 Laws 2018**

SECTION 19. Section 59A-20-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 398, as amended) is amended to read:

"59A-20-33. STANDARD NONFORFEITURE LAW--INDIVIDUAL DEFERRED ANNUITIES.--

A. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code of 1986, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced or reversionary annuity, nor to any contract that shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.

B. In the case of contracts issued on or after the operative date of this section as defined in Subsection P of this section, no contract of annuity, except as stated in Subsection A of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions that in the opinion of the superintendent are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

(1) that upon cessation of payment of considerations under a contract or upon the written request of the contract owner, the insurer shall grant a paid-

up annuity benefit on a plan stipulated in the contract of such value as is specified in Subsections H, I, J, K and M of this section;

(2) if a contract provided for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in Subsections H, I, K and M of this section. The insurer may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed six months after demand therefor with surrender of the contract after making written request and receiving written approval of the superintendent. The request shall address the necessity and equitability to all policyholders of the deferral;

(3) a statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits; and

(4) a statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

C. Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from prior considerations paid would be less than twenty dollars (\$20.00) monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

D. The minimum values as specified in Subsections H, I, J, K and M of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section. The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in Subsection E of this section of the net considerations, as hereinafter defined, paid prior to such time, decreased by the sum of Paragraphs (1) through (4) of this subsection:



(1) any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in Subsection E of this section;

(2) an annual contract charge of fifty dollars (\$50.00), accumulated at rates of interest as indicated in Subsection E of this section;

(3) any tax pursuant to the Insurance Premium Tax Act paid by the insurer for the contract, accumulated at rates of interest as indicated in Subsection E of this section; and

(4) the amount of any indebtedness to the insurer on the contract, including interest due and accrued.

E. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during that contract year. The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(1) the five-year constant maturity treasury rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest one-twentieth percent, specified in the contract no longer than fifteen months prior to the contract issue date or redetermination date pursuant to Paragraph (2) of this subsection reduced by one hundred twenty-five basis points, where the resulting interest rate is not less than one percent; and

(2) the interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

F. Notwithstanding the provisions of Subsections D and E of this section, during the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in Paragraph (1) of Subsection E of this section by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The superintendent may require a demonstration that the present value of the reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the superintendent, the superintendent may disallow or limit the additional reduction.

G. The superintendent may adopt rules to implement the provisions of Subsection F of this section and to provide for further adjustments to the calculation of

minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the superintendent determines adjustments are justified.

H. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rates specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

I. For contracts that provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit that would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

J. For contracts that do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts that do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the bases of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

K. For the purpose of determining the benefits calculated under Subsections I and J of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

L. Any contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

M. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

N. For any contract that provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of Subsections H, I, J, K and M of this section, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

O. The superintendent may adopt rules to implement the provisions of this section.

P. After July 1, 2003, an insurer may elect to apply its provisions to annuity contracts on a contract-form by contract-form basis before July 1, 2005. In all other instances this section shall become operative with respect to annuity contracts issued by the insurer after June 30, 2005."

## **Chapter 57 Section 20 Laws 2018**

SECTION 20. Section 59A-22-50 NMSA 1978 (being Laws 2010, Chapter 94, Section 1, as amended) is amended to read:

"59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

A. A health insurer shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, except individually underwritten health insurance policies, contracts or plans, that are governed

by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. An insurer that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to assure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

E. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive

services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health insurer" means a person duly authorized to transact the business of health insurance in the state pursuant to the Insurance Code but does not include a person that only issues a limited-benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income; and

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any tax paid pursuant to the Insurance Premium Tax Act and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

## **Chapter 57 Section 21 Laws 2018**

SECTION 21. Section 59A-23C-10 NMSA 1978 (being Laws 2010, Chapter 94, Section 2, as amended) is amended to read:

### **"59A-23C-10. HEALTH INSURERS--DIRECT SERVICES.--**

A. A health insurer shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. An insurer that fails to comply with the eighty-five percent reimbursement requirement in Subsection A of this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to assure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits equal eighty-five percent of the premiums collected in the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce the requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

C. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

D. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health insurer" means a person duly authorized to transact the business of health insurance in the state pursuant to the Insurance Code but does not include a person that only issues a limited-benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income; and

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any tax paid pursuant to the Insurance Premium Tax Act and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

## **Chapter 57 Section 22 Laws 2018**

SECTION 22. Section 59A-39-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 662) is amended to read:

"59A-39-5. ATTORNEY.--

A. "Attorney", as used in Chapter 59A, Article 39 NMSA 1978, refers to the attorney-in-fact of a reciprocal insurer. The attorney may be an individual, firm or corporation.

B. The attorney of a foreign reciprocal insurer, which insurer is duly authorized to transact insurance in this state, shall not, by virtue of the discharge of its duties as such attorney with respect to the insurer's transactions in this state, be thereby deemed to be doing business in this state within the meaning of any laws of this state applying to foreign persons, firms or corporations.

C. The subscribers and the attorney-in-fact comprise a reciprocal insurer and single entity for the purposes of the Insurance Premium Tax Act and Sections 59A-6-3 through 59A-6-6 NMSA 1978 as to all operations under the insurer's certificate of authority."

## **Chapter 57 Section 23 Laws 2018**

SECTION 23. Section 59A-40-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 688) is amended to read:

"59A-40-5. REPORTS.--The insurer shall pay any applicable fees and charges as are required under the Insurance Code to be paid by other authorized insurers transacting in New Mexico the same kind of insurance. The insurer shall make the same reports to the superintendent and the national association of insurance commissioners as are required of such other authorized insurers, but in such adapted forms as may for the purpose be prescribed by the superintendent."

## **Chapter 57 Section 24 Laws 2018**

SECTION 24. Section 59A-46-51 NMSA 1978 (being Laws 2010, Chapter 94, Section 3, as amended) is amended to read:

"59A-46-51. HEALTH MAINTENANCE ORGANIZATIONS--DIRECT SERVICES.-

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A. A health maintenance organization shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, except individually underwritten health insurance policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health maintenance organization that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer or health maintenance organization writing these policies, plans or contracts

shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer or health maintenance organization that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. A health maintenance organization that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policy or contract holders in an amount sufficient to assure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

E. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health maintenance organization or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health 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, but does not include a person that only issues a limited-benefit policy or contract intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income; and

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including



capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any tax paid pursuant to the Insurance Premium Tax Act and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

## **Chapter 57 Section 25 Laws 2018**

SECTION 25. 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 the amendment will not be effective until approved by the superintendent. The superintendent shall notify the health care plan filing the underwriting manual or the amendment thereto of the superintendent's approval or disapproval thereof in writing within thirty days after filing or within sixty days after filing if the superintendent shall so extend the time. If the superintendent fails to act within such period, the filing shall be deemed to be approved;

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 an organization that demonstrates to the superintendent that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered, and is authorized by the superintendent to enter into contracts with subscribers and to make health care expense payments;

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 57 Section 26 Laws 2018**

SECTION 26. Section 59A-47-46 NMSA 1978 (being Laws 2010, Chapter 94, Section 4, as amended) is amended to read:

"59A-47-46. HEALTH INSURERS--DIRECT SERVICES.--

A. A health care plan shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, except individually underwritten health care policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services as determined as a percent of premiums. Additional hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies, plans or contracts shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. A health care plan that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to assure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

E. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health care plan, health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which a health care plan or a health insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health care plan" means a nonprofit corporation authorized by the superintendent to enter into contracts with subscribers and to make health care expense payments but does not include a person that only issues a limited-benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income; and

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any tax paid pursuant to the Insurance Premium Tax Act and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

## **Chapter 57 Section 27 Laws 2018**

SECTION 27. Section 59A-49-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 904) is amended to read:

"59A-49-6. TRUST FUND--ACCOUNTING--DEPOSIT, RESERVES AND PREMIUM TAX.--

A. In all cases where funeral plans are sold, all money paid, directly or indirectly, under such agreement, or under any agreement collateral thereto, shall be held in trust for the purpose for which it was paid until the obligation is fulfilled according to its terms; provided, however, that any payment made pursuant to this section shall be released upon death of the person for whose benefit such payment was made, and no payments so made shall be subject to forfeiture. Accruals of interest upon this money shall be subject to the same trust.

B. All funds received as herein provided shall be placed in trust with a trustee pursuant to an agreement executed by the depositor and trustee that shall provide that the trustee shall hold the same in trust for the purposes for which deposited; that the trustee shall pay the same to the depositor upon the filing of a certified copy of the death certificate or other satisfactory evidence of the death of the beneficiary; and that the beneficiary or the beneficiary's duly appointed guardian may, in

writing, demand the return of the money, together with accrued interest, if any, less cost incurred in the operation of such trust, and the depositor shall be entitled to receive such money from the trustee for payment to the beneficiary upon delivery of such written demand to the trustee. The payment of such funds and accumulated interest, pursuant to the terms of the Prearranged Funeral Plan Regulatory Law and the agreement herein referred to, shall relieve the trustee of any further liabilities with regard to such funds or interest thereon.

C. Each seller of funeral plans shall submit such accounting or accountings of all money collected or received on account of or in connection with the sale of funeral plans and of all money deposited or withdrawn from a trustee, as the superintendent may reasonably direct, by regulation or order.

D. Funds collected and placed in trust pursuant to this section shall not be used as the basis for the calculation of the capital and surplus, general deposits and fees otherwise required under Section 59A-5-16 NMSA 1978."

## **Chapter 57 Section 28 Laws 2018**

SECTION 28. Section 59A-54-10 NMSA 1978 (being Laws 1987, Chapter 154, Section 10, as amended) is amended to read:

"59A-54-10. ASSESSMENTS.--

A. Following the close of each fiscal year, the pool administrator shall determine the net premium, being premiums less administrative expense allowances, the pool expenses and claim expense losses for the year, taking into account investment income and other appropriate gains and losses. The assessment for each insurer shall be determined by multiplying the total cost of pool operation by a fraction, the numerator of which equals that insurer's premium and subscriber contract charges or their equivalent for health insurance written in the state during the preceding calendar year and the denominator of which equals the total of all premiums and subscriber contract charges written in the state; provided that premium income shall include receipts of medicaid managed care premiums but shall not include any payments by the secretary of human services pursuant to a contract issued under Section 1876 of the Social Security Act, as amended. The board may adopt other or additional methods of adjusting the formula to achieve equity of assessments among pool members, including assessment of health insurers and reinsurers based upon the number of persons they cover through primary, excess and stop-loss insurance in the state.

B. If assessments exceed actual losses and administrative expenses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

C. The proportion of participation of each member in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed with it by the member. Any deficit incurred by the pool shall be recouped by assessments apportioned among the members of the pool pursuant to the assessment formula provided by Subsection A of this section.

D. The board may abate or defer, in whole or in part, the assessment of a member of the pool if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligation. In the event an assessment against a member of the pool is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in Subsection A of this section. The member receiving the abatement or deferment shall remain liable to the pool for the deficiency for four years."

## **Chapter 57 Section 29 Laws 2018**

SECTION 29. Section 59A-55-6 NMSA 1978 (being Laws 1988, Chapter 125, Section 6, as amended) is amended to read:

"59A-55-6. RISK RETENTION GROUPS--REPORTS.--

A. Each risk retention group shall report to the superintendent the net premium written for risks resident or located within New Mexico.

B. To the extent a licensed insurance producer is utilized pursuant to Section 59A-55-24 NMSA 1978, the licensed insurance producer shall report to the superintendent the premiums for direct business for risks resident or located within this state that the insurance producers have placed with or on behalf of a risk retention group not licensed in this state.

C. To the extent that an insurance producer is utilized pursuant to Section 59A-55-24 NMSA 1978, the insurance producer shall keep a complete and separate record of all policies procured from each such risk retention group, which record shall be open to examination by the superintendent and shall contain the information required by the superintendent by rule."

## **Chapter 57 Section 30 Laws 2018**

SECTION 30. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY AND CONTRACTUAL OBLIGATIONS.--

A. On the effective date of this act, all personnel directly involved with the audit and collection of the taxes imposed pursuant to the New Mexico Insurance Code prior to the effective date of this act, functions, appropriations, money, records, furniture,

equipment and other property of, or attributable to, the financial audit bureau of the office of superintendent of insurance shall be transferred to the taxation and revenue department.

B. On the effective date of this act, no contractual obligations of the office of superintendent of insurance shall be binding on the taxation and revenue department.

### **Chapter 57 Section 31 Laws 2018**

SECTION 31. REPEAL.--Sections 59A-6-2, 59A-14-12, 59A-14-18, 59A-23B-9 and 59A-55-21 NMSA 1978 (being Laws 1984, Chapter 127, Sections 102, 250 and 256, Laws 1991, Chapter 111, Section 9 and Laws 1988, Chapter 125, Section 21, as amended) are repealed.

### **Chapter 57 Section 32 Laws 2018**

SECTION 32. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020.

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HTRC/House Bill 223

Approved March 2, 2018

## **LAWS 2018, CHAPTER 58**

AN ACT

RELATING TO TAXATION; CLARIFYING THE DEFINITION IN LAW OF CONSTRUCTION MATERIAL, AS USED IN THE GROSS RECEIPTS AND COMPENSATING TAX ACT; DECLARING AN EMERGENCY.

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

### **Chapter 58 Section 1 Laws 2018**

SECTION 1. Section 7-9-54 NMSA 1978 (being Laws 1969, Chapter 144, Section 44, as amended by Laws 2003, Chapter 272, Section 6 and by Laws 2003, Chapter 330, Section 2) is amended to read:

"7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

A. Receipts from selling tangible personal property to the United States or New Mexico or a governmental unit, subdivision, agency, department or instrumentality thereof may be deducted from gross receipts or from governmental gross receipts. Unless contrary to federal law, the deduction provided by this subsection does not apply to:

(1) receipts from selling metalliferous mineral ore;

(2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;

(3) receipts from selling construction material, excluding tangible personal property, whether removable or non-removable, that is or would be classified for depreciation purposes as three-year property, five-year property, seven-year property or ten-year property, including indirect costs related to the asset basis, by Section 168 of the Internal Revenue Code of 1986, as that section may be amended or renumbered; or

(4) that portion of the receipts from performing a "service" that reflects the value of tangible personal property utilized or produced in performance of such service.

B. Receipts from selling tangible personal property for any purpose to an Indian tribe, nation or pueblo or a governmental unit, subdivision, agency, department or instrumentality thereof for use on Indian reservations or pueblo grants may be deducted from gross receipts or from governmental gross receipts.

C. When a seller, in good faith, deducts receipts for tangible personal property sold to the state or a governmental unit, subdivision, agency, department or instrumentality thereof, after receiving written assurances from the buyer's representative that the property sold is not construction material, the department shall not assert in a later assessment or audit of the seller that the receipts are not deductible pursuant to Paragraph (3) of Subsection A of this section."

## **Chapter 58 Section 2 Laws 2018**

SECTION 2. Section 7-9-60 NMSA 1978 (being Laws 1970, Chapter 12, Section 4, as amended) is amended to read:

"7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

A. Except as provided otherwise in Subsection B of this section, receipts from selling tangible personal property to 501(c)(3) organizations may be deducted from



gross receipts or from governmental gross receipts if the sale is made to an organization that delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate shall employ the tangible personal property in the conduct of functions described in Section 501(c)(3) and shall not employ the tangible personal property in the conduct of an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as amended or renumbered.

B. The deduction provided by this section does not apply to receipts from selling construction material, excluding tangible personal property, whether removable or non-removable, that is or would be classified for depreciation purposes as three-year property, five-year property, seven-year property or ten-year property, including indirect costs related to the asset basis, by Section 168 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, or from selling metalliferous mineral ore; except that receipts from selling construction material or from selling metalliferous mineral ore to a 501(c)(3) organization that is organized for the purpose of providing homeownership opportunities to low-income families may be deducted from gross receipts. Receipts may be deducted under this subsection only if the buyer delivers a nontaxable transaction certificate to the seller. The buyer shall use the property in the conduct of functions described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not employ the tangible personal property in the conduct of an unrelated trade or business, as defined in Section 513 of that code.

C. For the purposes of this section, "501(c)(3) organization" means an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered."

## **Chapter 58 Section 3 Laws 2018**

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

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HFL/House Bill 245, aa, w/ec

Approved March 2, 2018

## **LAWS 2018, CHAPTER 59**

AN ACT

RELATING TO TAXATION; REQUIRING ANNUAL SUBMISSION OF STATEMENTS OF WITHHOLDING FOR ALL EMPLOYERS; REQUIRING CERTAIN EMPLOYERS TO FILE ELECTRONICALLY.

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

## **Chapter 59 Section 1 Laws 2018**

SECTION 1. Section 7-3-7 NMSA 1978 (being Laws 1961, Chapter 243, Section 8, as amended) is amended to read:

### "7-3-7. STATEMENTS OF WITHHOLDING.--

A. Every employer shall file with the department an annual statement of withholding for each employee. The statement shall be in a form prescribed by the department, except employers with twenty-five or more employees shall file statements using a department-approved electronic medium. The statement shall be filed with the department on or before the last day of January of the year following that for which the statement is made. It shall include the total compensation paid the employee and the total amount of tax withheld for the calendar year or portion of a calendar year if the employee has worked less than a full calendar year.

B. Every payer shall file with the department an annual statement of withholding for each individual from whom some portion of a pension or an annuity has been deducted and withheld by that payer. The statement shall be in a form prescribed by the department, except employers with twenty-five or more employees shall file statements using a department-approved electronic medium. The statement shall be in a form prescribed by the department and shall be filed with the department on or before the last day of January of the year following that for which the statement is made. It shall include the total amount of pension or annuity paid to the individual and the amount of tax withheld for the calendar year.

C. Every person required to deduct and withhold tax from a payment of winnings that are subject to withholding shall file with the department an annual statement of withholding for each wagerer from whom some portion of a payment of winnings has been deducted and withheld by that person. The statement shall be filed using a department-approved electronic medium and shall be filed with the department on or before the last day of January of the year following that for which the statement is made. It shall include the total amount of winnings paid to the individual and the amount of tax withheld for the calendar year. The department may also require any person who is required to submit an information return to the internal revenue service regarding the winnings of another person to submit copies of the return to the department."

## **Chapter 59 Section 2 Laws 2018**

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2019.

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House Bill 276, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 60**

AN ACT

RELATING TO METROPOLITAN REDEVELOPMENT; AMENDING THE METROPOLITAN REDEVELOPMENT CODE; PROVIDING COUNTIES WITH POWERS AND DUTIES; INCLUDING CREATIVE ENTERPRISES, CULTURAL FACILITIES AND PUBLIC INFRASTRUCTURE AS ELIGIBLE PROJECTS; MAKING CONFORMING AND CLARIFYING CHANGES.

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

### **Chapter 60 Section 1 Laws 2018**

SECTION 1. Section 3-60A-1 NMSA 1978 (being Laws 1979, Chapter 391, Section 1) is amended to read:

"3-60A-1. SHORT TITLE.--Chapter 3, Article 60A NMSA 1978 may be cited as the "Metropolitan Redevelopment Code"."

### **Chapter 60 Section 2 Laws 2018**

SECTION 2. Section 3-60A-2 NMSA 1978 (being Laws 1979, Chapter 391, Section 2, as amended by Laws 2007, Chapter 329, Section 3 and by Laws 2007, Chapter 330, Section 3) is amended to read:

"3-60A-2. FINDINGS AND DECLARATIONS OF NECESSITY.--

A. It is found and declared that there exist in the state slum areas and blighted areas that constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state; that the existence of these areas contributes substantially to the spread of disease and crime, constitutes an economic and social burden, substantially impairs or arrests the sound and orderly development of many areas of the state and retards the maintenance and expansion of necessary housing accommodations; that economic and commercial activities are lessened in those areas by the slum or blighted conditions, and the effects of these

conditions include less employment in the area, lower property values, less gross receipts tax revenue and reduced use of buildings, residential dwellings and other facilities in the area; that the prevention and elimination of slum areas and blighted areas and the prevention and elimination of conditions that impair sound and orderly development is a matter of state policy and concern in order that the state shall not continue to be endangered by these areas that contribute little to the tax income of the state and its local governments and that consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization or other forms of public protection, services and facilities.

B. Certain slum areas and blighted areas or portions thereof may require land acquisition and clearance by local government, since prevailing conditions may make impracticable their reclamation or development; other areas or portions of the slum or blighted area may be suitable for conservation or rehabilitation efforts and the conditions and evils enumerated in Subsection A of this section may be eliminated, remedied or prevented by those efforts; and to the extent feasible, salvageable slum and blighted areas should be conserved and rehabilitated through voluntary action and the regulatory process and, when necessary, by government assistance.

C. The powers conferred by the Metropolitan Redevelopment Code regarding the use of public money are for public uses or purposes for which public money may be expended. The individual benefits accruing to persons as the result of the powers conferred by the Metropolitan Redevelopment Code and projects conducted in accordance with its provisions are found and declared to be incidental to the objectives of that code and are far outweighed by the benefit to the public as a whole. Activities authorized and powers granted by the Metropolitan Redevelopment Code are hereby declared not to result in a donation or aid to any person, association or public or private organization or enterprise. The necessity for these provisions and the power is declared to be in the public interest as a matter of legislative determination."

## **Chapter 60 Section 3 Laws 2018**

SECTION 3. Section 3-60A-3 NMSA 1978 (being Laws 1979, Chapter 391, Section 3, as amended by Laws 2007, Chapter 329, Section 4 and by Laws 2007, Chapter 330, Section 4) is amended to read:

### **"3-60A-3. LEGISLATIVE INTENT.--**

A. It is the intent of the legislature by the passage of the Metropolitan Redevelopment Code to authorize local governments to acquire, own, lease, improve and dispose of properties in a designated metropolitan redevelopment area to the end that such local governments may be able to promote industry and develop trade or other economic activity by inducing profit or nonprofit corporations, federal governmental offices, hospitals and manufacturing, industrial, commercial or business enterprises to locate, expand or remain in such area, to mitigate the serious threat of extensive unemployment in a metropolitan redevelopment area and to secure and

maintain a balanced and stable economy in an area declared to be a slum or blighted area.

B. It is the further intent of the legislature to authorize local governments to acquire, own, lease, improve and dispose of properties so that adequate medical care, residential housing and facilities for the disposal of sewage and solid waste may be provided; and industrial, manufacturing, commercial or business activities may be begun or expanded in these areas; furnishing water, energy and gas may be provided; more adequate facilities for sports events and activities and recreation activities, conventions and trade shows may be provided; more parking facilities or storage or training facilities may be provided; and more adequate research, product-testing and administrative facilities may be provided, all of which promote the public health, welfare, safety, convenience and prosperity.

C. It is, therefore, the intention of the legislature to vest local governments with all powers, other than the power of eminent domain, that may be necessary to enable them to accomplish such purposes, which powers shall in all respects be exercised for the benefit of the inhabitants of this state and within the jurisdiction of the local governments of the state for the promotion of their health, safety, welfare, convenience and prosperity.

D. It is not intended by the Metropolitan Redevelopment Code to authorize any local government to operate any manufacturing, industrial, commercial or business enterprise or any research, product-testing or administrative facilities of such enterprise. Nor is it the intent of that code to prohibit the operation of residential housing facilities, health care facilities, sewage or solid waste disposal facilities or the furnishing of water, sports or recreation facilities, convention or trade show facilities, airports, public transportation facilities or operations, parking facilities or storage or training facilities by any local government."

## **Chapter 60 Section 4 Laws 2018**

SECTION 4. Section 3-60A-4 NMSA 1978 (being Laws 1979, Chapter 391, Section 4, as amended) is amended to read:

"3-60A-4. DEFINITIONS.--As used in the Metropolitan Redevelopment Code:

A. "public body" means a local government, board, commission, authority, district or other political subdivision or public body of the state;

B. "local government" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, or a county or, when the context requires, the governing body of an incorporated city, town or village or a county;

C. "clerk" means the clerk or other official of a local government who is the chief custodian of the official records of the local government;

D. "federal government" means the United States of America or an agency or instrumentality, corporate or otherwise, of the United States;

E. "slum area" means an area within the area of operation in which there are numerous residential or nonresidential buildings, improvements and structures that are dilapidated, deteriorated, aged or obsolete or that have inadequate provision for ventilation, light, air or sanitation or the area lacks open spaces or has a high density of population or overcrowding or there exist in the area conditions that endanger life or property by fire or other causes, and the area is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare;

F. "blighted area" means an area within the area of operation other than a slum area that substantially impairs or arrests the sound growth and economic health and well-being within the jurisdiction of a local government or a locale within the jurisdiction of a local government because of the presence of a substantial number of deteriorated or deteriorating structures; a predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision; lack of adequate housing facilities in the area; or obsolete or impractical planning and platting or an area where a significant number of commercial or mercantile businesses have closed or significantly reduced their operations due to the economic losses or loss of profit due to operating in the area, low levels of commercial or industrial activity or redevelopment or any combination of such factors; or an area that retards the provisions of housing accommodations or constitutes an economic or social burden and is a menace to the public health, safety, morals or welfare in its present condition and use;

G. "metropolitan redevelopment project" or "project" means an activity, undertaking or series of activities or undertakings designed to eliminate slums or blighted areas in areas designated as metropolitan redevelopment areas and the activity or undertaking conforms to an approved plan for the area for slum clearance and redevelopment, rehabilitation and conservation;

H. "slum clearance and redevelopment" means the use of those powers authorized by the Metropolitan Redevelopment Code to eliminate slum areas and undertake activities authorized by the Metropolitan Redevelopment Code to rejuvenate or revitalize those areas so that the conditions that caused those areas to be designated slum areas are eliminated;

I. "rehabilitation" or "conservation" means the restoration and renewal of a slum or blighted area or portion thereof in accordance with an approved plan by use of powers granted by the Metropolitan Redevelopment Code;

J. "metropolitan redevelopment area" means a slum area or a blighted area or a combination thereof that the local government so finds and declares and designates as appropriate for a metropolitan redevelopment project;

K. "metropolitan redevelopment plan" means a plan, as it exists from time to time, for one or more metropolitan redevelopment areas or for a metropolitan redevelopment project, which plan shall:

(1) seek to eliminate the problems created by a slum area or blighted area;

(2) conform to the general plan for the local government as a whole; and

(3) be sufficient to indicate the proposed activities to be carried out in the area, including any proposals for land acquisition; proposals for demolition and removal of structures; redevelopment; proposals for improvements, rehabilitation and conservation; zoning and planning changes; land uses, maximum densities, building restrictions and requirements; and the plan's relationship to definite local objectives respecting land uses, improved traffic patterns and controls, public transportation, public utilities, recreational and community facilities, housing facilities, commercial activities or enterprises, industrial or manufacturing use and other public improvements;

L. "real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise;

M. "bonds" means any bonds, including refunding bonds, notes, interim certificates, certification of indebtedness, debentures, metropolitan redevelopment bonds or other securities evidencing an obligation and issued under the provisions of the Metropolitan Redevelopment Code or other obligations;

N. "obligee" includes a bondholder, agent or trustee for a bondholder or lessor demising to the local government property used in connection with a metropolitan redevelopment project or any assignee or assignees of such lessor's interest or any part thereof;

O. "person" means an individual, firm, partnership, corporation, company, association, joint stock association or body politic or the state or any political subdivision thereof and shall further include any trustee, receiver, assignee or other person acting in a similar representative capacity;

P. "area of operation" means an area within a local government's jurisdiction, except that it shall not include an area that lies within the jurisdiction of

another local government unless an ordinance has been adopted by the other local government declaring a need therefor;

Q. "board" or "commission" means a board, commission, department, division, office, body or other unit of a local government designated by the local government to perform functions authorized by the Metropolitan Redevelopment Code as directed by the local government;

R. "public officer" means any person who is in charge of any department or branch of government of the local government; and

S. "fair value" means the negotiated price or value of an asset or liability agreed upon by a local government and a private entity."

## **Chapter 60 Section 5 Laws 2018**

SECTION 5. Section 3-60A-6 NMSA 1978 (being Laws 1979, Chapter 391, Section 6) is amended to read:

"3-60A-6. USE OF PRIVATE ENTERPRISE AND PUBLIC POWERS.--A local government, to the greatest feasible extent, shall afford maximum opportunity for the rehabilitation or redevelopment of the metropolitan redevelopment areas by private enterprise. A local government shall give consideration to this objective in exercising its powers provided by the Redevelopment Law, including the approval of metropolitan redevelopment plans consistent with the general plan for the local government; the exercise of its zoning powers; the enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements; the disposition of any property acquired; and the provision of necessary public improvements."

## **Chapter 60 Section 6 Laws 2018**

SECTION 6. Section 3-60A-7 NMSA 1978 (being Laws 1979, Chapter 391, Section 7) is amended to read:

"3-60A-7. FINDING OF NECESSITY BY LOCAL GOVERNMENT.--No local government shall exercise any of the powers conferred upon local governments by the Redevelopment Law until the local government has adopted a resolution finding that:

A. one or more slum areas or blighted areas exist in the local government's jurisdiction; and

B. the rehabilitation, conservation, slum clearance, redevelopment or development, or a combination thereof, of and in such area is necessary in the interest of the public health, safety, morals or welfare of the residents of the local government's jurisdiction."



## **Chapter 60 Section 7 Laws 2018**

SECTION 7. Section 3-60A-8 NMSA 1978 (being Laws 1979, Chapter 391, Section 8) is amended to read:

### **"3-60A-8. DESIGNATION OF A METROPOLITAN REDEVELOPMENT AREA.--**

A. A local government shall not prepare a metropolitan redevelopment plan for an area unless the local government has, by resolution, determined the area to be a slum area or a blighted area or a combination thereof and designated the area as appropriate for a metropolitan redevelopment project, which resolution may be adopted only after the local government has caused to be published in a newspaper of general circulation within the area of operation of the local government a notice that contains a general description of the area and the date, time and place where the local government shall hold a public hearing to consider the resolution and a notice that any interested party may appear and speak to the issue of the adoption of the resolution.

B. Notice shall be published at least twice, and the last publication shall be not less than twenty days before the hearing. The owner of any real property affected by the resolution has the right to file in the district court of the county within which the local government is located, within twenty days after the adoption of the resolution, an action to set aside the determination made by the local government.

C. A local government shall not acquire real property for a metropolitan redevelopment project unless the local government has approved a metropolitan redevelopment plan relating to the metropolitan redevelopment area in which the real property is located."

## **Chapter 60 Section 8 Laws 2018**

SECTION 8. Section 3-60A-9 NMSA 1978 (being Laws 1979, Chapter 391, Section 9) is amended to read:

### **"3-60A-9. PREPARATION OF A METROPOLITAN REDEVELOPMENT PLAN.--**

A. When a local government has complied with the provisions of the Redevelopment Law concerning public hearing and designation of an area as a metropolitan redevelopment area, it may prepare or cause to be prepared a metropolitan redevelopment plan; however, prior to final consideration of the plan by the local government, the plan shall be the subject of at least one public hearing held by the local government or the local government's planning commission, at which time comments from the public as a whole can be gathered and considered by the local government in its preparation of the final plan. The local government may hold a public hearing for purposes of approval of the proposed plan, as provided in Subsection B of this section, only after the hearing required by this subsection.

B. The local government shall hold a public hearing on a metropolitan redevelopment plan or substantial modification of an approved plan after public notice by publication in a newspaper having a general circulation in the area of operation of the local government. The notice shall describe the time, date, place and purpose of the hearing, shall generally identify the area covered by the plan and shall outline the general scope of the metropolitan redevelopment project under consideration. Prior to the public hearing on this matter, notice of the public hearing shall be mailed by first class mail to the owners of real property in the metropolitan redevelopment area. The mailing shall be to the owner's address as shown on the records of the county treasurer. If the notice by first class mail to the owner is returned undelivered, the local government shall attempt to discover the owner's most recent address and shall re-mail the notice by certified mail, return receipt requested, to the address.

C. Following the public hearing, the local government may approve a metropolitan redevelopment plan if it finds that:

(1) the proposed activities will aid in the elimination or prevention of slum or blight or the conditions that lead to the development of slum or blight;

(2) a feasible method is included in the plan to provide individuals and families who occupy residential dwellings in the metropolitan redevelopment area and who may be displaced by the proposed activities with decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families;

(3) the plan conforms to the general plan for the local government;  
and

(4) the plan affords maximum opportunity consistent with the needs of the community for the rehabilitation or redevelopment of the area by private enterprise or persons and the objectives of the plan justify the proposed activities as public purposes and needs.

D. A metropolitan redevelopment plan may be modified at any time; however, if the plan is modified after the lease or sale by the local government of real property in the project area, the modification shall be subject to any rights at law or in equity a lessee or purchaser or the lessee's or purchaser's successors in interest may be entitled to assert. Any proposed modification that will substantially change the plan as previously approved by the local government shall be subject to the requirements of this section, including the requirement of a public hearing, before it may be approved."

## **Chapter 60 Section 9 Laws 2018**

SECTION 9. Section 3-60A-10 NMSA 1978 (being Laws 1979, Chapter 391, Section 10, as amended by Laws 2007, Chapter 329, Section 5 and by Laws 2007, Chapter 330, Section 5) is amended to read:

"3-60A-10. POWERS OF LOCAL GOVERNMENT.--A local government shall have all the powers, other than the power of eminent domain, necessary or convenient to carry out and effectuate the purposes and provisions of the Metropolitan Redevelopment Code, including the following powers:

A. to undertake and carry out metropolitan redevelopment projects within its area of operation, including clearance and redevelopment, rehabilitation, conservation and development activities and programs; to make, enter into and execute contracts and other agreements and instruments necessary or convenient to the exercise of its powers under the Redevelopment Law; and to disseminate information regarding slum clearance, prevention of blight and the metropolitan redevelopment projects and areas;

B. to provide, arrange or contract for the furnishing or repair by a public or private person or agency for services, privileges, works, streets, roads, public utilities, public buildings or other facilities for or in connection with a metropolitan redevelopment project; to, within its area of operation, install, acquire, construct, reconstruct, remodel, rehabilitate, maintain and operate streets, utilities, parks, buildings, playgrounds and public buildings, including parking facilities, transportation centers, public safety buildings and other public improvements or facilities or improvements for public purposes, as may be required by the local government, the state or a political subdivision of the state; to agree to conditions that it may deem reasonable and appropriate that are attached to federal financial assistance and imposed pursuant to federal law, including conditions relating to the determination of prevailing salaries or wages or compliance with federal and state labor standards, compliance with federal property acquisition policy and the provision of relocation assistance in accordance with federal law in the undertaking or carrying out of a metropolitan redevelopment project; and to include in a contract let in connection with the project provisions to fulfill these conditions as it may deem reasonable and appropriate; provided, however, that all purchases of personal property shall be in accordance with the Procurement Code;

C. within its area of operation, to inspect any building or property in a metropolitan redevelopment area in order to make surveys, appraisals, soundings or test borings and to obtain an order for this purpose from a court of competent jurisdiction in the event inspection is denied by the property owner or occupant; to acquire, by purchase, lease, option, gift, grant, bequest, devise or otherwise, any real property or personal property for its administrative or project purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of real or personal property or operations of the local government against risks or hazards, including the power to pay premiums on that insurance; and to enter into contracts necessary to effectuate the purposes of the Metropolitan Redevelopment Code;

D. to invest metropolitan redevelopment project funds held in reserve, sinking funds or other project funds that are not required for immediate disbursement in

property or securities in which local governments may legally invest funds subject to their control; to redeem bonds as have been issued pursuant to the Metropolitan Redevelopment Code at the redemption price established in the bonds or to purchase the bonds at less than redemption price. Bonds so redeemed or purchased shall be canceled;

E. to borrow or lend money subject to those procedures and limitations as may be provided in the constitution of New Mexico or statutes and to apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the federal government, the state, the county or other public body or from sources, public or private, for the purposes of the Metropolitan Redevelopment Code; and to give security as may be required and subject to the provisions and limitations of general law except as may otherwise be provided by the Redevelopment Law and to enter into and carry out contracts in connection with that law. A local government may include in a contract for financial assistance with the federal government for a metropolitan redevelopment project conditions imposed pursuant to federal law that the local government may deem reasonable or appropriate and that are not inconsistent with the purposes of the Metropolitan Redevelopment Code;

F. within its area of operation, to make plans necessary for the carrying out of the purposes of the Metropolitan Redevelopment Code and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend the plans. The plans may include without limitation:

- (1) a general plan for redevelopment of the area as a whole;
- (2) redevelopment plans for specific areas;
- (3) plans for programs of voluntary or assisted repair and rehabilitation of buildings and improvements;
- (4) plans for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and
- (5) appraisals, title searches, surveys, studies and other preliminary plans and work necessary to prepare for the undertaking of metropolitan redevelopment projects;

G. to develop, test and report methods and techniques and carry out demonstrations and other activities for the prevention and elimination of slums and blight and to pay for, accept and use grants of funds from the federal government for those purposes;

H. to prepare plans for the relocation of families displaced from a metropolitan redevelopment area to the extent essential for acquiring possession of and clearing the area or its parts or permit the carrying out of the metropolitan redevelopment project;

I. to appropriate under existing authority the funds and make expenditures necessary to carry out the purposes of the Metropolitan Redevelopment Code and under existing authority to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; in accordance with applicable law or ordinances, to plan or replan, zone or rezone any part within the jurisdiction of the local government or make exceptions from building regulations; and to enter into agreements with a metropolitan redevelopment agency vested with metropolitan redevelopment project powers, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by the local government pursuant to the powers granted by the Redevelopment Law;

J. within its area of operation, to organize, coordinate and direct the administration of the provisions of the Redevelopment Law as they apply to the local government in order that the objective of remedying slum areas and blighted areas and preventing the causes of those areas within the jurisdiction of the local government may be most effectively promoted and achieved and to establish any new office of the local government or to reorganize existing offices as necessary;

K. to acquire real property that is appropriate for the preservation or restoration of historic sites; the beautification of urban land; the conservation of open spaces, natural resources and scenic areas; or the provision of recreational opportunities; or that is to be used for public purposes;

L. to engage in the following activities as part of a metropolitan redevelopment project:

(1) acquisition, construction, reconstruction or installation of public works, facilities and site or other improvements, including neighborhood facilities, senior citizen centers, historic properties, utilities, streets, street lights, water and sewer facilities, including connections for residential users, foundations and platforms for air-rights sites, pedestrian malls and walkways, parks, playgrounds and other recreation facilities, flood and drainage facilities, parking facilities, solid waste disposal facilities and fire protection or health facilities that serve designated areas;

(2) special projects directed to the removal of materials and architectural barriers that restrict the mobility and accessibility of elderly and disabled persons;

(3) provision of public services in the metropolitan redevelopment area that are not otherwise available in the area, including the provisions of public

services directed to the employment, economic development, crime prevention, child care, health, drug abuse, welfare or recreation needs of the people who reside in the metropolitan redevelopment area;

(4) payment of the nonfederal share of any federal grant-in-aid program to the local government that will be a part of a metropolitan redevelopment project;

(5) if federal funds are used in the project, to provide for payment of relocation costs and assistance to individuals, families, businesses, organizations and farm operations displaced as a direct result of a metropolitan redevelopment project in accordance with applicable law governing such payment;

(6) payment of reasonable administrative costs and carrying charges related to the planning and execution of plans and projects;

(7) economic and marketing studies to determine the economic condition of an area and to determine the viability of certain economic ventures proposed for the metropolitan redevelopment area;

(8) issuance of bonds, grants or loans as authorized by the Metropolitan Redevelopment Code in accordance with the requirements of that code; and

(9) grants to nonprofit corporations, local development corporations or entities organized under Section 301 (d) of the federal Small Business Investment Act of 1958 for the purposes of carrying out the provisions of the Metropolitan Redevelopment Code;

M. if payments are to be made by the local government or metropolitan redevelopment agency under the terms of a contract for reconstruction or rehabilitation of private property, payments shall be made from a special fund created for that purpose and shall not be paid directly to the property owner but shall instead be paid to the contractor by the local government or agency from such fund upon proper authorization of the property owner and notification that the terms of the contract have been fulfilled. However, those rehabilitation contracts shall be between the property owner and the contractor after a sealed bidding procedure and award of contract approved by the local government has taken place;

N. in a metropolitan redevelopment project or rehabilitation or conservation undertaking or activity, to exercise the following powers in one or more metropolitan redevelopment areas to include the elimination and prevention of the development or spread of slums or blight and may involve slum clearance and redevelopment in that area or rehabilitation or conservation in that area or any combination or part of those areas in accordance with a metropolitan redevelopment plan and for undertakings or activities of a local government in a metropolitan

redevelopment area to eliminate the conditions that caused an area to be so designated and may include the following:

(1) acquisition of real property within the metropolitan redevelopment area pursuant to any powers and for purposes enumerated in the Metropolitan Redevelopment Code;

(2) clearing the land, grading the land and replatting the land in accordance with the metropolitan redevelopment plan; installation, construction or reconstruction of roads, streets, gutters, sidewalks, storm drainage facilities, water lines or water supply installations, sewer lines and sewage disposal installations, steam, gas and electric lines and installations, airport facilities and construction of any other needed public facilities or buildings whether on or off the site if deemed necessary by the local government to prepare the land in the metropolitan redevelopment area for residential, commercial, industrial and public use in accordance with the metropolitan redevelopment plan; and

(3) making the land available for development by private enterprise or public agencies, including sale, initial leasing, leasing or retention by the local government itself, at its fair market value for uses in accordance with the metropolitan redevelopment plan for the area;

O. the local government is empowered in a metropolitan redevelopment area to undertake slum clearance and redevelopment that includes:

(1) acquisition of a slum area or a blighted area or portion thereof;

(2) demolition and removal of buildings and improvements;

(3) installation, construction, reconstruction, maintenance and operation of streets, utilities, storm drainage facilities, curbs and gutters, parks, playgrounds, single-family or multifamily dwelling units, buildings, public buildings, including parking facilities, transportation centers, safety buildings and other improvements, necessary for carrying out in the area the provisions of an approved plan for the area; and

(4) making the real property available for development or redevelopment by private enterprise or public agencies, including sale, leasing or retention by the local government itself, at its fair value for uses in accordance with the metropolitan redevelopment area plan; and

P. to engage in rehabilitation or conservation that includes the restoration and renewal of a slum or blighted area or portion thereof in accordance with any approved plan, by:

(1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(2) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen or increase density, eliminate obsolete or other uses detrimental to the public welfare or to otherwise remove or prevent the spread of blight or deterioration or to provide land for needed public facilities;

(3) installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the area the provisions of the Metropolitan Redevelopment Code;

(4) the disposition of any property acquired in the area, including sale, leasing or retention by the local government itself, for uses in accordance with an approved plan;

(5) acquisition of real property in the area that, under a plan, is to be repaired or rehabilitated;

(6) repair or rehabilitation of structures within the area;

(7) power to resell repaired or rehabilitated property;

(8) acquisition, without regard to any requirement that the area be a slum or blighted area, of air-rights in an area consisting principally of land on which is located a highway, railway, bridge or subway tracks or tunnel entrance or other similar facilities that have a blighting influence on the surrounding area and over which air-rights sites are to be developed for the elimination of such blighting influences; and

(9) making loans or grants or authorizing the use of the proceeds of bonds issued pursuant to the Metropolitan Redevelopment Code for the purpose of repairing, remodeling, modifying or otherwise reconstructing a building or buildings located in the metropolitan redevelopment area. Such rehabilitation or conservation with use of funds expended by authority of the Metropolitan Redevelopment Code or by metropolitan revenue bonds authorized by that code shall be authorized only after approval by the local government and after it has been determined that the expenditure is in accordance with the metropolitan redevelopment plan for that area."

## **Chapter 60 Section 10 Laws 2018**

SECTION 10. Section 3-60A-12 NMSA 1978 (being Laws 1979, Chapter 391, Section 12) is amended to read:

"3-60A-12. DISPOSAL OF PROPERTY.--



A. A local government may sell, lease or otherwise transfer real property or any interest in real property acquired by it in a metropolitan redevelopment area and may enter into contracts with respect to the real property for residential, commercial, industrial or other uses or for public use or may retain such property or interest for public use in accordance with the metropolitan redevelopment plan, subject to any covenants, conditions and restrictions, including covenants running with the land and including the incorporation by reference in the covenants of the provisions of a metropolitan redevelopment plan or any part thereof, as it may deem to be in the public interest or necessary to carry out the purposes of the metropolitan redevelopment plan. The purchasers or lessees and their successors and assigns shall be obligated to devote the real property only to the uses specified in the metropolitan redevelopment plan for a period of years as set out in the sale or lease agreement and may be obligated to comply with other requirements that the local government may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on real property required by the metropolitan redevelopment plan. The real property or interest shall be sold, leased, otherwise transferred or retained at not less than its fair value for uses in accordance with the Redevelopment Law as determined by the local government or by the metropolitan redevelopment agency, if so authorized. In determining the fair value of real property for uses in accordance with the metropolitan redevelopment plan, a local government shall take into account and give consideration to the uses provided in the plan, the restrictions upon and the covenants, conditions and obligations assumed by the purchaser or lessee or by the local government retaining the property and the objectives of the plan for the prevention of and recurrence of slum or blighted areas. The local government in any instrument of conveyance to a private purchaser or lessee may provide that the purchaser or lessee shall be without power to sell, lease or otherwise transfer the real property without the prior written consent of the local government until the purchaser or lessee has completed the construction of any and all improvements that the purchaser or lessee is obligated to construct on the real property. Real property acquired by a local government that, in accordance with the provisions of the metropolitan redevelopment plan, is to be transferred shall be transferred consistent with the carrying out of the provisions of the plan. The inclusion in any contract or conveyance to a purchaser or lessee of covenants, restrictions or conditions, including the incorporation by reference in the covenants of the provisions of a metropolitan redevelopment plan or any part thereof, shall not prevent the filing of the contract or conveyance in the land records of the county in a manner as to afford actual or constructive notice thereof.

B. A local government may dispose of real property in a metropolitan redevelopment area to private persons only in accordance with the procedures set out in this subsection. The local government shall, prior to entering into any agreement to convey title or an interest in real property, publish a public notice once each week for at least two consecutive weeks of the date, time and place it will receive proposals for the purchase, lease or rental, for development or redevelopment purposes, of the real property or interest in the real property it intends to dispose of. The public notice shall contain sufficient information to describe the location of the real property, the type of development sought or land use requirement and the selection criteria the local

government will follow during review of proposals and shall state that details may be obtained at the office designated in the notice. The local government shall consider all proposals submitted in accordance with the public notice and shall only accept proposals it deems in the public interest and meeting the objectives of the metropolitan redevelopment plan after considering the type of development, redevelopment or use proposed and the financial ability of the persons making the proposals to carry them out.

C. If, after following the procedures set out in Subsection B of this section, a local government receives no proposals or determines the ones received are not in accordance with the call for proposals or do not meet the objectives of the Metropolitan Redevelopment Code, the local government may reject any proposals received and then dispose of the real property through reasonable negotiating procedures; provided, however, that negotiated sales, leases or transfers shall be reported to the local government and approved before the sale, lease or transfer may take effect.

D. A local government may operate and maintain real property acquired in a metropolitan redevelopment area pending the disposition of the property for development or redevelopment without regard to the provisions of Subsection A of this section for any uses and purposes deemed desirable even though not in conformity with the Redevelopment Law."

## **Chapter 60 Section 11 Laws 2018**

SECTION 11. Section 3-60A-13 NMSA 1978 (being Laws 1979, Chapter 391, Section 13, as amended) is amended to read:

"3-60A-13. PROPERTY EXEMPT FROM TAXES AND FROM LEVY AND SALE BY VIRTUE OF AN EXECUTION.--

A. All property of a local government, including funds, owned or held in fee simple by it for the purposes of the Metropolitan Redevelopment Code shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the property nor shall judgment against a local government be a charge or lien upon the property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to the Redevelopment Law by a local government on its rents, fees, grants, land or revenues from projects.

B. The property of a local government acquired or held for the purposes of the Metropolitan Redevelopment Code is declared to be public property used for essential public and governmental purposes, and the property shall be exempt from property taxes or assessments of the local government, the county, the state or any political subdivision thereof; provided that the exemption shall terminate when the local government transfers its fee simple interest in the property to a purchaser that is not entitled to the exemption with respect to the property. Nothing in this subsection

authorizes an exemption or deduction from the imposition of the gross receipts and compensating taxes under the Gross Receipts and Compensating Tax Act on the gross receipts from the sale of property to or the use of property by a local government or any other person in connection with a metropolitan redevelopment project created under the Metropolitan Redevelopment Code."

## **Chapter 60 Section 12 Laws 2018**

SECTION 12. Section 3-60A-13.1 NMSA 1978 (being Laws 1985, Chapter 225, Section 2) is amended to read:

"3-60A-13.1. PAYMENTS IN LIEU OF PROPERTY TAXES AND ASSESSMENTS.--

A. If interests in project property are exempt from property taxation and assessments under Subsection B of Section 3-60A-13 NMSA 1978 or Section 7-36-3.1 NMSA 1978, then during the period extending from the date of acquisition of the property by the local government through December 31 of the year in which the seventh anniversary of that acquisition date occurs, any lessee of the project property or owner of a substantial beneficial interest in the project property, in whose ownership the property would not be exempt from property taxation except for the exemption granted under Section 7-36-3.1 NMSA 1978, shall pay to the county treasurer annually, at the same time property tax payments are due under the Property Tax Code, an amount equal to the sum of:

(1) general property taxes that would have been imposed under Subsection B of Section 7-37-7 NMSA 1978 had it not been exempt and had it been valued at the valuation for property taxation purposes that existed in the year immediately preceding the year of acquisition by the local government;

(2) amounts that would have been imposed under Subsection C of Section 7-37-7 NMSA 1978 on the project property had it not been exempt and had it been valued at the valuation for property taxation purposes that existed in the year immediately preceding the year of acquisition by the local government; and

(3) amounts that would have been imposed as benefit assessments on the project property had it not been exempt and had it been valued at the valuation for property taxation purposes that existed in the year immediately preceding the year of acquisition by the local government if those benefit assessments are authorized by law and are expressed in mills per dollar or dollars per thousand dollars of net taxable value of property, assessed value of property or similar terms.

B. The county treasurer shall distribute all amounts collected under Subsection A of this section in the same manner as the amounts would have been distributed if they had been collected as taxes or assessments on nonexempt property.

C. The provisions of this section shall apply only to project property acquired by a local government under the provisions of the Metropolitan Redevelopment Code on or after January 1, 1986."

## **Chapter 60 Section 13 Laws 2018**

SECTION 13. Section 3-60A-14 NMSA 1978 (being Laws 1979, Chapter 391, Section 14) is amended to read:

### "3-60A-14. COOPERATION BY PUBLIC BODIES.--

A. For the purpose of aiding in the planning, undertaking or carrying out of a metropolitan redevelopment project located within the area in which it is authorized to act, any public body upon terms with or without consideration may:

(1) dedicate, sell, convey or lease any of its interest in any property or grant easements, licenses or other rights or privileges in the property to a local government;

(2) incur the entire expense of any public improvements made by the public body in exercising the powers granted in this section;

(3) do any and all things necessary to aid or cooperate in the planning or carrying out of a metropolitan redevelopment plan;

(4) lend, grant or contribute funds to a local government;

(5) enter into agreements that may extend over any period, notwithstanding any provision or rule of law to the contrary, with a local government or other public body respecting action to be taken pursuant to any of the powers granted by the Redevelopment Law, including the furnishing of funds or other assistance in connection with metropolitan redevelopment; or

(6) cause public buildings and public facilities, including parks and playgrounds, recreational, community, educational, transportation, water, sewer or drainage facilities or any other works that it is otherwise empowered to undertake, to be furnished to the local government; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places; plan or replan, zone or rezone any part of the public property or make exceptions from building regulations; and cause administrative and other services to be furnished to the local government.

If at any time title to or possession of any redevelopment project is held by any public body or governmental agency, other than the local government that is authorized by law to engage in the undertaking, carrying out or administration of development projects, including the federal government, the provisions of the agreements referred to

in this section shall inure to the benefit of and may be enforced by such public body or governmental agency. As used in this subsection, the term "local government" includes a metropolitan redevelopment agency vested with metropolitan redevelopment project powers pursuant to the provisions of the Metropolitan Redevelopment Code.

B. For the purpose of aiding in the planning, undertaking or carrying out of the metropolitan redevelopment project by a redevelopment agency, a local government may, in addition to its other powers and upon such terms with or without consideration, perform any or all of the actions or things that, by the provisions of Subsection A of this section, a public body is authorized to do or perform, including the furnishing of financial and other assistance.

C. For the purposes of this section or for the purpose of aiding in the planning, undertaking or carrying out of a metropolitan redevelopment project of a local government, the local government may, in addition to any authority to issue bonds pursuant to the Redevelopment Bonding Law, issue and sell its general obligation or revenue bonds. Any bonds issued by a local government pursuant to this section shall be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by a local government for public purposes generally."

## **Chapter 60 Section 14 Laws 2018**

SECTION 14. Section 3-60A-15 NMSA 1978 (being Laws 1979, Chapter 391, Section 15, as amended by Laws 2007, Chapter 329, Section 6 and by Laws 2007, Chapter 330, Section 6) is amended to read:

### **"3-60A-15. EXERCISE OF POWERS IN CARRYING OUT PROJECTS.--**

A. A local government may directly exercise its metropolitan redevelopment project powers or it may, by ordinance if it determines such action to be in the public interest, elect to delegate the exercise of such powers to the metropolitan redevelopment agency created pursuant to the Redevelopment Law. If the local government so determines, the agency shall be vested with all of the powers in the same manner as though all the powers were conferred on the agency or authority instead of the local government.

B. As used in this section, the term "redevelopment project powers" includes any rights, powers, functions and duties of a local government authorized by the Redevelopment Law except the following, which are reserved to the local government, the power to:

(1) declare an area to be a slum or a blighted area or combination thereof and to designate the area as appropriate for a redevelopment project;

(2) approve or amend redevelopment plans;

(3) approve a general plan for the local government as a whole;

(4) make findings of necessity prior to preparation of a metropolitan redevelopment plan as provided in the Redevelopment Law and the findings and determinations required prior to approval of a metropolitan redevelopment plan or project as provided in the Redevelopment Law;

(5) issue general obligation bonds and revenue bonds as authorized by law;

(6) approve loans or grants;

(7) approve leases of more than one year's duration;

(8) issue redevelopment bonds; and

(9) appropriate funds and levy taxes and assessments."

## **Chapter 60 Section 15 Laws 2018**

SECTION 15. Section 3-60A-16 NMSA 1978 (being Laws 1979, Chapter 391, Section 16) is amended to read:

"3-60A-16. METROPOLITAN REDEVELOPMENT AGENCY.--

A. There may be created in each local government a public body to be known as the "metropolitan redevelopment agency". The metropolitan redevelopment agency shall not transact any business or exercise any powers until the local government has adopted an ordinance creating a metropolitan redevelopment agency and has specified the powers and duties of the agency.

B. When the metropolitan redevelopment agency has been authorized to transact business and exercise powers, the mayor or manager of the local government, with the advice and consent of the local government, shall appoint a board of commissioners of the redevelopment agency, which shall consist of five commissioners. The commissioners shall be initially appointed to serve staggered terms as follows from the date of their appointment:

(1) two members for three-year terms;

(2) two members for two-year terms; and

(3) one member for a one-year term.

Thereafter, commissioners shall be appointed for terms of five years each.

C. A commissioner shall receive no compensation for services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of the commissioner's duties. Each commissioner shall hold office until the commissioner's successor has been appointed and qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the local government, and the certificate shall be conclusive evidence of the due and proper appointment of the commissioner. A commissioner may be removed from office at any time by the mayor or manager of the local government.

D. The powers of a metropolitan redevelopment agency shall be exercised by the commissioners. A majority of the appointed commissioners constitutes a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present at a lawful meeting, unless the bylaws require a larger number. Any person may be appointed as commissioner if the person resides within the area of operation of the agency, which shall be coterminous with the area of operation of the local government, and is otherwise eligible for appointment under the Redevelopment Law.

E. The mayor or manager of the local government shall designate a chair and vice chair from among the commissioners. The commission may employ and determine the qualifications, duties and compensation of an executive director, technical experts and other agents and employees, permanent and temporary, as the metropolitan redevelopment agency may require. For legal services as the agency may require, the commission may employ or retain for the agency legal counsel and a legal staff. A metropolitan redevelopment agency shall file annually with the local government a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of the fiscal year."

## **Chapter 60 Section 16 Laws 2018**

SECTION 16. Section 3-60A-17 NMSA 1978 (being Laws 1979, Chapter 391, Section 17) is amended to read:

"3-60A-17. CONFLICT OF INTEREST--MISCONDUCT.--No public official or employee of a local government or member of any board or commission of a local government and no commissioner or employee of a metropolitan redevelopment agency that has been vested by a local government with metropolitan redevelopment project powers by the Redevelopment Law shall voluntarily acquire any interest, direct or indirect, in any metropolitan redevelopment project of the local government or in any contract or proposed contract in connection with the project. Where the acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the local government, and the disclosure shall be entered upon its minutes. If any such official, commissioner or employee currently owns or controls or owned or controlled within the preceding two years any interest, direct or indirect, in any property that the official,

commissioner or employee knows is included or planned to be included in a metropolitan redevelopment project, the official, commissioner or employee shall immediately disclose this fact in writing to the local government, and this disclosure shall be entered upon the minutes of the local government, and the official, commissioner or employee shall not participate in any action by the local government affecting the property. Any disclosure required to be made by this section to the local government shall concurrently be made to a metropolitan redevelopment agency that has been vested with metropolitan redevelopment project powers by the local government."

## **Chapter 60 Section 17 Laws 2018**

SECTION 17. Section 3-60A-18 NMSA 1978 (being Laws 1979, Chapter 391, Section 18) is amended to read:

"3-60A-18. OTHER POWERS.--

A. Except as otherwise specifically set forth in Section 3-60A-15 NMSA 1978, the local government may delegate its metropolitan redevelopment powers in the manner provided for delegation of powers in the Redevelopment Law to a metropolitan redevelopment agency that shall be vested with the powers in the same manner as though the powers were conferred on the agency instead of the local government.

B. The local government may, in the manner required by state law or municipal charter, provide for ordinances, rules, regulations or by other means it deems proper as are necessary to implement the Redevelopment Law. The local government and the agency shall be empowered to exercise only those powers authorized by the Redevelopment Law or otherwise provided by law. Nothing in the Redevelopment Law shall be construed to authorize the local government to operate an electric or gas utility."

## **Chapter 60 Section 18 Laws 2018**

SECTION 18. Section 3-60A-19 NMSA 1978 (being Laws 1979, Chapter 391, Section 19) is amended to read:

"3-60A-19. TAX INCREMENT LAW--SHORT TITLE.--Sections 3-60A-19 through 3-60A-24 NMSA 1978 may be cited as the "Tax Increment Law"."

## **Chapter 60 Section 19 Laws 2018**

SECTION 19. Section 3-60A-20 NMSA 1978 (being Laws 1979, Chapter 391, Section 20) is amended to read:

"3-60A-20. ALTERNATIVE METHOD OF FINANCING.--



A. Effective for tax years beginning on or after January 1, 1980, the local government may elect by resolution to use the procedures set forth in the Tax Increment Law for financing metropolitan redevelopment projects. Such procedures may be used in addition to or in conjunction with other methods provided by law for financing such projects.

B. The tax increment method, for the purpose of financing metropolitan redevelopment projects, is the dedication for further use in metropolitan redevelopment projects of that increase in property tax revenue directly resulting from the increased net taxable value of a parcel of property attributable to its rehabilitation, redevelopment or other improvement because of its inclusion within an urban renewal, community development or metropolitan redevelopment project."

## **Chapter 60 Section 20 Laws 2018**

SECTION 20. Section 3-60A-21 NMSA 1978 (being Laws 1979, Chapter 391, Section 21, as amended) is amended to read:

"3-60A-21. TAX INCREMENT PROCEDURES.--The procedures to be used in the tax increment method are:

A. the local government shall, at the time after approval of a metropolitan redevelopment project, notify the county assessor and the taxation and revenue department of the taxable parcels of property within the project;

B. upon receipt of notification pursuant to Subsection A of this section, the county assessor and the taxation and revenue department shall identify the parcels of property within the metropolitan redevelopment project within their respective jurisdictions and certify to the county treasurer the net taxable value of the property at the time of notification as the base value for the distribution of property tax revenues authorized by the Property Tax Code. If because of acquisition by the local government the property becomes tax exempt, the county assessor and the taxation and revenue department shall note that fact on their respective records and so notify the county treasurer, but the county assessor, the taxation and revenue department and the county treasurer shall preserve a record of the net taxable value at the time of inclusion of the property within the metropolitan redevelopment project as the base value for the purpose of distribution of property tax revenues when the parcel again becomes taxable. The county assessor is not required by this section to preserve the new taxable value at the time of inclusion of the property within the metropolitan redevelopment project as the base value for the purposes of valuation of the property;

C. if because of acquisition by the local government the property becomes tax exempt, when the parcel again becomes taxable, the local government shall notify the county assessor and the taxation and revenue department of the parcels of property that because of their rehabilitation or other improvement are to be revalued for property tax purposes. A new taxable value of this property shall then be determined by the

county assessor or by the taxation and revenue department if the property is within the valuation jurisdiction of that department. If no acquisition by the local government occurs, improvement or rehabilitation of property subject to valuation by the assessor shall be reported to the assessor as required by the Property Tax Code, and the new taxable value shall be determined as of January 1 of the tax year following the year in which the improvement or rehabilitation is completed;

D. current tax rates shall then be applied to the new taxable value. The amount by which the revenue received exceeds that which would have been received by application of the same rates to the base value before inclusion in the metropolitan redevelopment project shall be credited to the local government and deposited in the metropolitan redevelopment fund. This transfer shall take place only after the county treasurer has been notified to apply the tax increment method to a specific property included in a metropolitan redevelopment area. Unless the entire metropolitan redevelopment area is specifically included by the local government for purposes of tax increment financing, the payment by the county treasurer to the local government shall be limited to those properties specifically included. The remaining revenue shall be distributed to participating units of government as authorized by the Property Tax Code; and

E. the procedures and methods specified in this section shall be followed annually for a maximum period of twenty years following the date of notification of inclusion of property as coming under the transfer provisions of this section."

## **Chapter 60 Section 21 Laws 2018**

SECTION 21. Section 3-60A-22 NMSA 1978 (being Laws 1979, Chapter 391, Section 22) is amended to read:

"3-60A-22. METROPOLITAN REDEVELOPMENT FUND--CREATION--DISBURSEMENT.--There is created a "metropolitan redevelopment fund" for purposes of the Metropolitan Redevelopment Code. Money in the metropolitan redevelopment fund shall be disbursed to the local government to be used as other money is authorized to be used in the Metropolitan Redevelopment Code."

## **Chapter 60 Section 22 Laws 2018**

SECTION 22. Section 3-60A-23 NMSA 1978 (being Laws 1979, Chapter 391, Section 23, as amended) is amended to read:

"3-60A-23. TAX INCREMENT FINANCING METHOD APPROVAL.--

A. The property tax increment method shall be applicable only to the units of government participating in property tax revenue derived from the properties within the district.

B. A local government shall request an approval for up to a twenty-year period for property included in the tax increment funding. The governor or the governor's authorized representative shall approve, partially approve or disapprove the use of the method for state government; the governing body of each other participating unit shall approve, partially approve or disapprove by ordinance or resolution the use of the method for its respective units.

C. At the request of a participating unit of government, made within ten days of receipt of the request by the local government, the local government shall make a presentation to the governor or the governor's authorized representative and to the governing bodies of all participating units of government, which presentation shall include a description of the metropolitan redevelopment project and the parcels in the project to which the tax increment method will apply and an estimate of the general effect of the project and the application of the tax increment method on property values and tax revenues. All participating units shall notify the local government seeking approval within thirty days of receipt of the local government's request. At the expiration of that time, the alternative method of financing set forth in this section shall be effective for a period of up to twenty tax years."

## **Chapter 60 Section 23 Laws 2018**

SECTION 23. Section 3-60A-23.1 NMSA 1978 (being Laws 2000, Chapter 103, Section 4) is amended to read:

### **"3-60A-23.1. TAX INCREMENT BONDS.--**

A. For the purpose of financing metropolitan redevelopment projects, in whole or in part, a local government may issue tax increment bonds or tax increment bond anticipation notes that are payable from and secured by real property taxes, in whole or in part, allocated to the metropolitan redevelopment fund pursuant to the provisions of Sections 3-60A-21 and 3-60A-23 NMSA 1978. The principal of, premium, if any, and interest on the bonds or notes shall be payable from and secured by a pledge of such revenues, and the local government shall irrevocably pledge all or part of the revenues to the payment of the bonds or notes. The revenues deposited in the metropolitan redevelopment fund or the designated part thereof may thereafter be used only for the payment of the principal of, premium, if any, and interest on the bonds or notes, and a holder of the bonds or notes shall have a first lien against the revenues deposited in the metropolitan redevelopment fund or the designated part thereof for the payment of principal of, premium, if any, and interest on the bonds or notes. To increase the security and marketability of the tax increment bonds or notes, the local government may:

(1) create a lien for the benefit of the bondholders on any public improvements or public works used solely by the metropolitan redevelopment project or portion of a project financed by the bonds or notes, or on the revenues of such improvements or works;

(2) provide that the proceeds from the sale of real and personal property acquired with the proceeds from the sale of bonds or notes issued pursuant to the Tax Increment Law shall be deposited in the metropolitan redevelopment fund and used for the purposes of repayment of principal of, premium, if any, and interest on the bonds or notes; and

(3) make covenants and do any and all acts not inconsistent with law as may be necessary, convenient or desirable in order to additionally secure the bonds or notes or make the bonds or notes more marketable in the exercise of the discretion of the local government.

B. Bonds and notes issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, shall not be general obligations of the local government, shall be collectible only from the proper pledged revenues and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of tax increment bonds or tax increment bond anticipation notes. Bonds and notes issued pursuant to the Tax Increment Law are declared to be issued for an essential public and governmental purpose and, together with interest thereon, shall be exempted from all taxes by the state.

C. The bonds or notes shall be authorized by an ordinance of the local government; shall be in a denomination or denominations, a such date and mature, in the case of bonds, at a time not exceeding twenty years from their date, and in the case of notes, not exceeding five years from the date of the original note; bear interest at a rate or have appreciated principal value not exceeding the maximum net effective interest rate permitted by the Public Securities Act; and be in a form, carry registration privileges, be executed in a manner, be payable at a place within or without the state, be payable at intervals or at maturity and be subject to terms of redemption as the authorizing ordinance or supplemental resolution of the local government may provide.

D. The bonds or notes may be sold in one or more series at, below or above par, at public or private sale, in a manner and for a price as the local government, in its discretion, shall determine; provided that the price at which the bonds or notes are sold shall not result in a net effective interest rate that exceeds the maximum permitted by the Public Securities Act. As an incidental expense of a metropolitan redevelopment project or the portion financed with the bonds or notes, the local government in its discretion may employ financial and legal consultants with regard to the financing of the project.

E. In case any of the public officials of the local government whose signatures appear on any bonds or notes issued pursuant to the Tax Increment Law cease to be public officials before the delivery of the bonds or notes, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until delivery. Any provision of law to the contrary

notwithstanding, any bonds or notes issued pursuant to the Tax Increment Law shall be fully negotiable.

F. In any suit, action or proceeding involving the validity or enforceability of any bond or note issued pursuant to the Tax Increment Law or the security therefor, any bond or note reciting in substance that it has been issued by the local government in connection with a metropolitan redevelopment project shall be conclusively deemed to have been issued for that purpose and the project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of the Metropolitan Redevelopment Code.

G. The proceedings under which tax increment bonds or tax increment bond anticipation notes are authorized to be issued and any mortgage, deed of trust, trust indenture or other lien or security device on real and personal property given to secure the same may contain provisions customarily contained in instruments securing bonds and notes and constituting a covenant with the bondholders.

H. A local government may issue bonds or notes pursuant to this section with the proceeds from the bonds or notes to be used as other money is authorized to be used in the Metropolitan Redevelopment Code.

I. The local government shall have the power to issue renewal notes, to issue bonds to pay notes and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for other purposes in connection with financing metropolitan redevelopment projects, in whole or in part. Refunding bonds issued pursuant to the Tax Increment Law to refund outstanding tax increment bonds shall be payable from real property tax revenues, out of which the bonds to be refunded thereby are payable or from other lawfully available revenues.

J. The proceeds from the sale of any bonds or notes shall be applied only for the purpose for which the bonds or notes were issued, and if, for any reason, any portion of the proceeds are not needed for the purpose for which the bonds or notes were issued, the unneeded portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds or notes.

K. The cost of financing a metropolitan redevelopment project shall be deemed to include the actual cost of acquiring a site and the cost of the construction of any part of a project, including architects' and engineers' fees, the purchase price of any part of a project that may be acquired by purchase and all expenses in connection with the authorization, sale and issuance of the bonds or notes to finance the acquisition and any related costs incurred by the local government.

L. No action shall be brought questioning the legality of any contract, mortgage, deed of trust, trust indenture or other lien or security device, proceeding or

bonds or notes executed in connection with any project authorized by the Metropolitan Redevelopment Code on and after thirty days from the effective date of the ordinance authorizing the issuance of such bonds or notes."

## **Chapter 60 Section 24 Laws 2018**

SECTION 24. Section 3-60A-26 NMSA 1978 (being Laws 1979, Chapter 391, Section 26) is amended to read:

"3-60A-26. REDEVELOPMENT BONDING LAW--SHORT TITLE.--Sections 3-60A-26 through 3-60A-46 NMSA 1978 may be cited as the "Redevelopment Bonding Law"."

## **Chapter 60 Section 25 Laws 2018**

SECTION 25. Section 3-60A-27 NMSA 1978 (being Laws 1979, Chapter 391, Section 27) is amended to read:

"3-60A-27. DEFINITIONS.--As used in the Redevelopment Bonding Law:

A. "finance" or "financing" means the issuing of bonds by a local government and the use of substantially all of the proceeds from the bonds pursuant to a financing agreement with the user to pay or to reimburse the user or its designee for the costs of the acquisition or construction of a project, whether these costs are incurred by the local government, the user or a designee of the user; provided that title to or in the project may at all times remain in the user, and, in such case, the bonds of the local government may be secured by mortgage or other lien upon the project or upon any other property of the user, or both, granted by the user or by a pledge of one or more notes, debentures, bonds or other secured or unsecured debt obligations of the user, as the governing body deems advisable, but no local government shall be authorized hereby to pledge any of its property or to otherwise secure the payment of any bonds with its property, except that the local government may pledge the property of the project or revenues from the project;

B. "financing agreement" includes a lease, sublease, installment purchase agreement, rental agreement, option to purchase or any other agreement or any combination thereof entered into in connection with the financing of a project pursuant to the Metropolitan Redevelopment Code;

C. "mortgage" means a deed of trust or any other security device for both real and personal property;

D. "ordinance" means an ordinance of a local government financing or refinancing an activity involving or affecting improvement or improvements;

E. "project" means an activity that can be funded or refinanced by revenue bonds issued pursuant to the Redevelopment Bonding Law for the purpose of acquiring, improving, rehabilitating, conserving, financing, refinancing, erecting or building new or improved facilities on land, building or buildings or any other improvement or improvements, site or any other activity authorized by the Metropolitan Redevelopment Code for projects or activities located within the boundaries of a metropolitan redevelopment area. The revenue bonds may be used for the projects hereafter enumerated for any purpose or use in such project, except that no funds shall be used for inventories, raw materials or other working capital, whether or not in existence, suitable or used for or in connection with any of the following projects:

(1) manufacturing, industrial, commercial or business enterprises, including without limitation enterprises engaged in storing, warehousing, distributing, selling or transporting any products of industry, commerce, manufacturing or business or any utility plant;

(2) hospital, health care or nursing home facilities, including without limitation clinics and outpatient facilities and facilities for the training of hospital, health care or nursing home personnel;

(3) residential facilities intended for use as the place of residence by the owners or intended occupants;

(4) sewage or solid waste disposal facilities;

(5) facilities for the furnishing of water, if available, on reasonable demand to members of the general public;

(6) facilities for the furnishing of energy or gas;

(7) sports and recreational facilities;

(8) convention or trade show facilities;

(9) research, product testing and administrative facilities;

(10) creative enterprises or industries;

(11) cultural facilities as defined in the Local Economic Development Act; and

(12) public infrastructure in state-authorized main street projects or arts and cultural districts;

F. "revenue bonds" means bonds, notes or other securities evidencing an obligation and issued pursuant to the powers granted by the Metropolitan Redevelopment Code by a local government for purposes authorized by that code;

G. "user" means one or more persons who enter into a financing agreement with a local government relating to a project, except that the user need not be the person actually occupying, operating or maintaining the project; and

H. "utility plant" means any facility used for or in connection with the generation, production, transmission or distribution of electricity; the production, manufacture, storage or distribution of gas; the transportation or conveyance of gas, oil or other fluid substance by pipeline; or the diverting, developing, pumping, impounding, distributing or furnishing of water."

## **Chapter 60 Section 26 Laws 2018**

SECTION 26. Section 3-60A-28 NMSA 1978 (being Laws 1979, Chapter 391, Section 28) is amended to read:

"3-60A-28. GENERAL POWERS.--In addition to any other powers, each local government has the following powers:

A. to acquire, whether by construction, purchase, gift, devise, lease or sublease; to improve and equip; and to finance, sell, lease or otherwise dispose of one or more projects or part thereof. If a local government issues revenue bonds as provided by the Metropolitan Redevelopment Code to finance or acquire projects, the projects shall be located within the jurisdiction of the local government and within a metropolitan redevelopment area;

B. to enter into financing agreements with others for the purpose of providing revenues to pay the bonds authorized by the Redevelopment Bonding Law; to lease, sell or otherwise dispose of any or all of its projects to others for revenue and upon terms and conditions the local government may deem advisable; and to grant options to renew any lease or other agreement with respect to the project and to grant options to buy any project at a price the local government deems desirable;

C. to issue revenue bonds for the purpose of defraying the cost of financing, acquiring, improving and equipping any project, including the payment of principal and interest on the bonds for a period not to exceed three years and all other incidental expenses incurred in issuing the bonds; and

D. to secure payment of revenue bonds as provided in the Redevelopment Bonding Law."

## **Chapter 60 Section 27 Laws 2018**



SECTION 27. Section 3-60A-29 NMSA 1978 (being Laws 1979, Chapter 391, Section 29) is amended to read:

"3-60A-29. REVENUE BONDS--ISSUANCE.--

A. A local government may issue revenue bonds from time to time in its discretion to finance the undertaking of any project authorized by the Redevelopment Bonding Law or the exercise of any power or authority delegated under the Metropolitan Redevelopment Code. These bonds shall be made payable as to both principal and interest solely from the income, proceeds, revenues and funds of the project.

B. Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of bonds. Bonds issued under the provisions of the Metropolitan Redevelopment Code are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income thereon and income therefrom, shall be exempted from all taxes by the state.

C. Bonds issued under this section shall be authorized by resolution of the local government. The bonds may be issued in one or more series and shall bear a date or dates, be payable upon demand or mature at a time or times, bear interest at a rate or rates not exceeding the legally authorized rate, be in a denomination or denominations, be in a form either coupon or registered, carry conversion or registration privileges, have rank or priority, be executed in a manner, be payable in a medium of payment at a place or places, be subject to the terms of redemption with or without premium, be secured in a manner and have the other characteristics as may be provided by the resolution or trust indenture or mortgage issued pursuant to the bonds.

D. The revenue bonds or any portion to the bonds may be sold at not less than par at public sales held after notice published prior to the sale in a newspaper having a general circulation in the area of operation and in any other medium of publication as the local government may determine or may be exchanged for other bonds on the basis of par; provided that the bonds may be sold to the federal government or to the state at private sale at not less than par, and, in the event less than all of the authorized principal amount of the bonds is sold to the federal government or to the state or to political subdivisions thereof, the balance may be sold at private sale at not less than par at an interest cost to the local government of not to exceed the interest cost to the local government of the portion of the bonds sold to the federal government.

E. In case any of the public officials of the local government whose signatures appear on any bonds or coupons issued under the Metropolitan Redevelopment Code cease to be public officials before the delivery of the bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until delivery. Any provision of any law to the contrary

notwithstanding, any bonds issued pursuant to the Metropolitan Redevelopment Code shall be fully negotiable.

F. In any suit, action or proceeding involving the validity or enforceability of any bond issued under the Metropolitan Redevelopment Code or the security therefor, any bond reciting in substance that it has been issued by the local government in connection with a metropolitan redevelopment project shall be conclusively deemed to have been issued for such purpose, and the project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of the Metropolitan Redevelopment Code."

## **Chapter 60 Section 28 Laws 2018**

SECTION 28. Section 3-60A-30 NMSA 1978 (being Laws 1979, Chapter 391, Section 30) is amended to read:

"3-60A-30. BONDS AS LEGAL INVESTMENTS.--All banks, trust companies, bankers, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, curators, trustees and other fiduciaries may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds or other obligations issued by a local government pursuant to the Metropolitan Redevelopment Code or by any agency vested with metropolitan redevelopment project powers under the Redevelopment Law; provided that the bonds and other obligations shall be secured by a pledge of property or revenues or combinations thereof that is of sufficient value to equal the principal and interest of the bonds at maturity. The bonds and other obligations shall be authorized security for all public deposits. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities."

## **Chapter 60 Section 29 Laws 2018**

SECTION 29. Section 3-60A-31 NMSA 1978 (being Laws 1979, Chapter 391, Section 31) is amended to read:

"3-60A-31. REVENUE BONDS--ISSUANCE--STATUS.--

A. A local government may issue revenue bonds in connection with a financing agreement for the purposes of financing a project authorized by the provisions of the Redevelopment Bonding Law.

B. A revenue bond shall be a limited obligation of the local government, the principal and interest of which shall be payable, subject to the mortgage provisions

of the Redevelopment Bonding Law, solely out of the revenues derived from the financing, sale or leasing of the project with respect to which the bonds are issued.

C. The revenue bond and interest coupons, if any, appurtenant thereto shall never constitute a debt or indebtedness of the local government within the meaning of any provision or limitation of the constitution of New Mexico, statutes of the state or a home rule charter of the local government, and the bond shall not constitute or give rise to a pecuniary liability of the local government or a charge against its general credit or taxing powers. These limitations shall be plainly stated on the face of each bond."

## **Chapter 60 Section 30 Laws 2018**

SECTION 30. Section 3-60A-32 NMSA 1978 (being Laws 1979, Chapter 391, Section 32) is amended to read:

"3-60A-32. REVENUE BONDS--FORM AND TERMS.--

A. Revenue bonds shall be authorized by ordinance of the local government, shall be subject to a maximum net effective interest rate and shall be in denominations, bear a date, mature at a time not exceeding forty years from their respective dates, bear an interest at a rate, be in a form, carry registration privileges, be executed in a manner, be payable at a place within or without the state and be subject to terms of redemption as the authorizing ordinance or supplemental resolution of the local government may provide.

B. The revenue bonds may be sold in one or more series at par or below or above par at public or private sale in a manner and for a price as the local government in its discretion shall determine; but the local government shall not sell revenue bonds at a price such that the net effective interest rate of the issue of bonds exceeds the maximum net effective interest rate authorized. As an incidental expense of the project, the local government in its discretion may employ financial and legal consultants in regard to the financing of the project."

## **Chapter 60 Section 31 Laws 2018**

SECTION 31. Section 3-60A-33 NMSA 1978 (being Laws 1979, Chapter 391, Section 33) is amended to read:

"3-60A-33. REVENUE BONDS--BOND SECURITY.--The principal of, the interest on and any prior redemption premiums due in connection with the revenue bonds shall be payable from, secured by a pledge of and constitute a lien on the revenues out of which the bonds shall be made payable. In addition, they may be secured by a mortgage covering all or any part of the project or upon any other property of the user or both by a pledge of the revenues from or a financing agreement for the project or both as the local government in its discretion may determine; but no local government shall

be authorized by the Redevelopment Bonding Law to pledge any of its property or to otherwise secure the payment of any bonds with its property, except that the local government may pledge the property of the project or revenues from the project."

## **Chapter 60 Section 32 Laws 2018**

SECTION 32. Section 3-60A-34 NMSA 1978 (being Laws 1979, Chapter 391, Section 34) is amended to read:

"3-60A-34. REVENUE BONDS--TERMS OF PROCEEDINGS AND INSTRUMENTS.--The proceedings under which the revenue bonds are authorized to be issued and any mortgage or trust indenture given to secure the bonds may contain any provisions customarily contained in instruments securing bonds and constituting a covenant with the bondholders, including:

A. provisions respecting custody of the proceeds from the sale of the bonds, including their investment and reinvestment until used to defray the cost of the project;

B. provisions respecting the fixing and collection of revenues from the project;

C. the terms to be incorporated in the financing agreement and any mortgage or trust indenture for the project, including without limitation provision for subleasing;

D. the maintenance and insurance of the project;

E. the creation of funds and accounts into which any bond proceeds, revenues and income may be deposited or credited;

F. limitation on the purpose to which the proceeds of any bonds then or thereafter to be issued may be applied;

G. limitation on the issuance of additional bonds, the terms upon which additional bonds are issued and secured, the refunding of bonds and the replacement of bonds;

H. the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated;

I. vesting in a trustee properties, rights, powers and duties in trust as the local government determines and limiting the rights, duties and powers of the trustees; and

J. the rights and remedies available in case of a default to the bondholders or to any trustee under the financing agreement, a mortgage or a trust indenture for the project."

## **Chapter 60 Section 33 Laws 2018**

SECTION 33. Section 3-60A-35 NMSA 1978 (being Laws 1979, Chapter 391, Section 35) is amended to read:

### "3-60A-35. REVENUE BONDS--INVESTMENTS AND BANK DEPOSITS.--

A. The local government may provide that proceeds from the sale of revenue bonds and special funds from the revenues of the project shall be invested and reinvested in securities and other investments, whether or not any investment or reinvestment is authorized under any other law of this state, as may be provided in the proceedings under which the bonds are authorized to be issued, including:

(1) bonds or other obligations of the United States;

(2) bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States;

(3) obligations issued or guaranteed as to principal and interest by any agency or person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States;

(4) obligations issued or guaranteed by any state of the United States or any political subdivision of any such state;

(5) prime commercial paper;

(6) prime finance company paper;

(7) bankers' acceptances drawn on and accepted by commercial banks;

(8) repurchase agreements fully secured by obligations issued or guaranteed as to principal and interest by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States; and

(9) certificates of deposit issued by commercial banks.

B. The local government may also provide that the proceeds, funds or investments and the revenues payable under the financing agreement shall be

received, held and disbursed by one or more banks or trust companies located within or without this state."

## **Chapter 60 Section 34 Laws 2018**

SECTION 34. Section 3-60A-36 NMSA 1978 (being Laws 1979, Chapter 391, Section 36) is amended to read:

"3-60A-36. REVENUE BONDS--ACQUISITION OF PROJECT.--

A. The local government may also provide that:

(1) the project and improvements to be constructed, if any, shall be constructed by the local government, the user, the user's designee or any one or more of them on real estate owned by the local government, the user or the user's designee, as the case may be; and

(2) the bond proceeds shall be disbursed by the trustee bank or trust company during construction upon the estimate, order or certificate of the user or the user's designee.

B. The project, if and to the extent constructed on real estate not owned by the local government, may be conveyed or leased or an easement in the real estate granted to the local government at any time."

## **Chapter 60 Section 35 Laws 2018**

SECTION 35. Section 3-60A-37 NMSA 1978 (being Laws 1979, Chapter 391, Section 37) is amended to read:

"3-60A-37. REVENUE BONDS--LIMITED OBLIGATION.--In making agreements or provisions, a local government shall not obligate itself except with respect to the project and the application of the revenues and revenue bond proceeds from the project."

## **Chapter 60 Section 36 Laws 2018**

SECTION 36. Section 3-60A-39 NMSA 1978 (being Laws 1979, Chapter 391, Section 39) is amended to read:

"3-60A-39. REVENUE BONDS--DETERMINATION OF REVENUE.--

A. Prior to entering into a financing agreement for the project and the issuance of revenue bonds in connection with the project, the local government shall determine:

(1) the amount necessary in each year to pay the principal of and the interest on the first bonds proposed to be issued to finance the project;

(2) the amount necessary to be paid each year into any reserve funds that the local government may deem advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project; and

(3) the estimated cost of maintaining the project in good repair and keeping it properly insured unless the terms under which the project is to be financed provide that the user shall maintain the project and carry all proper insurance with respect to the project.

B. The determination and findings of the local government required to be made by Subsection A of this section shall be set forth in the proceedings under which the proposed revenue bonds are to be issued; but the foregoing amounts need not be expressed in dollars and cents in the financing agreement and proceedings under which the bonds are authorized to be issued."

## **Chapter 60 Section 37 Laws 2018**

SECTION 37. Section 3-60A-40 NMSA 1978 (being Laws 1979, Chapter 391, Section 40) is amended to read:

"3-60A-40. REVENUE BONDS--FINANCING OF PROJECT.--Prior to the issuance of any revenue bonds authorized by the Redevelopment Bonding Law, the local government shall enter into a financing agreement with respect to the project with a user providing for payment to the local government of revenue upon the basis of determinations and findings that the revenue will be sufficient to pay the principal of and interest on the bonds issued to finance the project, to build up and maintain any reserves deemed advisable by the local government in connection with the project and to pay the costs of maintaining the project in good repair and keeping it properly insured unless the financing agreement obligates the user to pay for the maintenance of and insurance on the project."

## **Chapter 60 Section 38 Laws 2018**

SECTION 38. Section 3-60A-41 NMSA 1978 (being Laws 1979, Chapter 391, Section 41) is amended to read:

"3-60A-41. OPTION TO PURCHASE.--

A. A lease may grant the user of a project an option to purchase all or a part of the project at a stipulated purchase price or at a price to be determined upon appraisal as is provided in the lease.

B. The option may be exercised at a time as the lease may provide.

C. The local government and the user may agree and provide in the lease that all or a part of the rentals paid by the user prior to and at the time of the exercise of the option shall be applied toward the purchase price and shall be in full or partial satisfaction of the purchase price."

## **Chapter 60 Section 39 Laws 2018**

SECTION 39. Section 3-60A-42 NMSA 1978 (being Laws 1979, Chapter 391, Section 42) is amended to read:

### "3-60A-42. REVENUE BONDS--REFUNDING.--

A. Any revenue bonds issued under the provisions of the Redevelopment Bonding Law and at any time outstanding may at any time and from time to time be refunded by a local government by the issuance of its refunding bonds in such amount as the local government may deem necessary to refund the principal of the bonds to be so refunded, any unpaid interest on the bonds and any premiums and incidental expenses necessary to be paid in connection with the bonds.

B. Any refunding may be effected, whether the bonds to be refunded have matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds, directly or indirectly, to the payment of the bonds to be refunded or by exchange of the refunding bonds for the bonds to be refunded, but the holders of any bonds to be so refunded shall not be compelled, without their consent, to surrender their bonds for payment or exchange prior to the date on which they are payable by maturity date, option to redeem or otherwise or if they are called for redemption prior to the date on which they are by their terms subject to redemption by option or otherwise.

C. All refunding bonds issued under authority of the Redevelopment Bonding Law to refund revenue bonds shall be payable solely from revenues out of which bonds to be refunded are payable or from revenues out of which bonds of the same character may be made payable under the Redevelopment Bonding Law or any other law in effect at the time of the refunding."

## **Chapter 60 Section 40 Laws 2018**

SECTION 40. Section 3-60A-43 NMSA 1978 (being Laws 1979, Chapter 391, Section 43) is amended to read:

### "3-60A-43. REVENUE BONDS--APPLICATION OF PROCEEDS.--

A. The proceeds from the sale of any revenue bonds shall be applied only for the purpose for which the bonds were issued, and, if for any reason any portion of the proceeds are not needed for the purpose for which the bonds were issued, the



unnneeded portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds.

B. The cost of acquiring any project shall be deemed to include the actual cost of acquiring a site and the cost of the construction of any part of a project that may be constructed, including architects' and engineers' fees, the purchase price of any part of a project that may be acquired by purchase and all expenses in connection with the authorization, sale and issuance of the bonds to finance the acquisition and any costs incurred by the local government."

## **Chapter 60 Section 41 Laws 2018**

SECTION 41. Section 3-60A-44 NMSA 1978 (being Laws 1979, Chapter 391, Section 44) is amended to read:

"3-60A-44. NO PAYMENT BY LOCAL GOVERNMENT.--

A. No local government or public body shall pay out of its general fund or otherwise contribute any part of the costs of acquiring a project and, unless specifically acquired for uses of the character described in the Redevelopment Bonding Law or unless the land is determined by the governing body to be no longer necessary for other municipal purposes or purposes of a public body, shall not use land already owned by the local government or public body or in which the local government or public body has an equity for the construction thereon of a project or any part thereof.

B. The entire cost of acquiring any project shall be paid out of the proceeds from the sale of the revenue bonds, but this provision shall not be construed to prevent a local government or public body from accepting donations of property to be used as a part of any project or money to be used for defraying any part of the cost of any project."

## **Chapter 60 Section 42 Laws 2018**

SECTION 42. Section 3-60A-45 NMSA 1978 (being Laws 1979, Chapter 391, Section 45) is amended to read:

"3-60A-45. NO LOCAL GOVERNMENT OPERATION.--

A. When all principal of, interest on and any prior redemption premium due in connection with the revenue bonds issued for a project leased to a user have been paid in full and in the event the option to purchase or option to renew the lease, if any, contained in the lease has not been exercised as to all of the property contained in the project, the lease shall terminate and the local government shall sell the remaining property or devote the property to local government purposes other than manufacturing, commercial or industrial.

B. Any sale that is not made pursuant to the exercise of an option to purchase by the user of a project shall be conducted in the same manner as is then provided by law governing the issuer's sale of surplus property."

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Senate Bill 95

Approved March 2, 2018

## **LAWS 2018, CHAPTER 61**

AN ACT

RELATING TO PUBLIC RECORDS; PROVIDING FOR THE PROTECTION OF CERTAIN INFORMATION RELATED TO THE COMMERCIAL AEROSPACE INDUSTRY; AMENDING THE INSPECTION OF PUBLIC RECORDS ACT; AMENDING THE SPACEPORT DEVELOPMENT ACT.

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

### **Chapter 61 Section 1 Laws 2018**

SECTION 1. Section 14-2-6 NMSA 1978 (being Laws 1993, Chapter 258, Section 3, as amended by Laws 2013, Chapter 117, Section 1 and by Laws 2013, Chapter 214, Section 2) is amended to read:

"14-2-6. DEFINITIONS.--As used in the Inspection of Public Records Act:

A. "custodian" means any person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control;

B. "file format" means the internal structure of an electronic file that defines the way it is stored and used;

C. "inspect" means to review all public records that are not excluded in Section 14-2-1 NMSA 1978;

D. "person" means any individual, corporation, partnership, firm, association or entity;

E. "protected personal identifier information" means:

(1) all but the last four digits of a:

(a) taxpayer identification number;

(b) financial account number; or

(c) driver's license number;

(2) all but the year of a person's date of birth; and

(3) a social security number;

F. "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education;

G. "public records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained; and

H. "trade secret" means trade secret as defined in Subsection D of Section 57-3A-2 NMSA 1978."

## **Chapter 61 Section 2 Laws 2018**

SECTION 2. Section 58-31-1 NMSA 1978 (being Laws 2005, Chapter 128, Section 1) is amended to read:

"58-31-1. SHORT TITLE.--Chapter 58, Article 31 NMSA 1978 may be cited as the "Spaceport Development Act"."

## **Chapter 61 Section 3 Laws 2018**

SECTION 3. A new section of the Spaceport Development Act is enacted to read:

"INFORMATION NOT SUBJECT TO INSPECTION.--

A. The following information obtained by the authority is not subject to inspection pursuant to the Inspection of Public Records Act:

(1) proprietary technical or business information, or information that is related to the possible relocation, expansion or operations of its aerospace customers, for which it is demonstrated, based on specific factual evidence, that

disclosure of the information would cause substantial competitive harm to the aerospace customer;

(2) trade secrets, as defined in Subsection D of Section 57-3A-2 NMSA 1978; and

(3) information that would compromise the physical security or cybersecurity of authority facilities or an aerospace customer of the authority.

B. The presence in a record of information that need not be disclosed pursuant to Subsection A of this section does not exempt the record from disclosure."

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SJC/Senate Bill 98, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 62**

AN ACT

RELATING TO TAXATION; CREATING A DEDUCTION FROM GROSS RECEIPTS FOR CONSTRUCTION SERVICES TO IMPLEMENT A FIGHTER AIRCRAFT PILOT TRAINING MISSION PROJECT AT A NEW MEXICO MILITARY INSTALLATION.

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

### **Chapter 62 Section 1 Laws 2018**

SECTION 1. Section 7-9-106 NMSA 1978 (being Laws 2007, Chapter 172, Section 8) is repealed and a new Section 7-9-106 NMSA 1978 is enacted to read:

"7-9-106. DEDUCTION--CONSTRUCTION SERVICES AND EQUIPMENT.--

A. Prior to July 1, 2022, receipts from construction services to implement a fighter aircraft pilot training mission project at a New Mexico military installation pursuant to contracts entered into with the United States department of defense may be deducted from gross receipts; provided that the military installation is located in a class B county with a population greater than sixty thousand according to the most recent federal decennial census.

B. The purpose of the deduction provided by this section is to encourage the permanent relocation of fighter aircraft squadrons from other states to a military installation in New Mexico.

C. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

D. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created."

## **Chapter 62 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 99

Approved March 2, 2018

## **LAWS 2018, CHAPTER 63**

AN ACT

RELATING TO PROPERTY; ENACTING THE UNIFORM DIRECTED TRUST ACT; MAKING CONFORMING AND TECHNICAL AMENDMENTS TO THE UNIFORM TRUST DECANTING ACT AND THE UNIFORM TRUST CODE; REPEALING SECTION 46A-8-808 NMSA 1978 (BEING LAWS 2003, CHAPTER 122, SECTION 8-808).

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

## **Chapter 63 Section 1 Laws 2018**

SECTION 1. SHORT TITLE.--Sections 1 through 18 of this act may be cited as the "Uniform Directed Trust Act".

## **Chapter 63 Section 2 Laws 2018**

SECTION 2. DEFINITIONS.--As used in the Uniform Directed Trust Act:

A. "breach of trust" includes a violation by a trust director or trustee of a duty imposed on that director or trustee by the terms of the trust, by the Uniform Directed Trust Act or by another law of New Mexico pertaining to trusts;

B. "directed trust" means a trust for which the terms of the trust grant a power of direction;

C. "directed trustee" means a trustee that is subject to a trust director's power of direction;

D. "person" means an individual; estate; business or nonprofit entity; public corporation; government; governmental subdivision, agency or instrumentality; or other legal entity;

E. "power of direction":

(1) means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee;

(2) includes a power over the investment, management or distribution of trust property or other matters of trust administration; and

(3) excludes the powers described in Subsection B of Section 5 of the Uniform Directed Trust Act;

F. "settlor" means a person, including a testator, that creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion;

G. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any other territory or possession subject to the jurisdiction of the United States;

H. "terms of a trust" means:

(1) except as otherwise provided in Paragraph (2) of this subsection, the manifestation of the settlor's intent regarding a trust's provisions as:

(a) expressed in the trust instrument; or

(b) established by other evidence that would be admissible in a judicial proceeding; or

by: (2) the trust's provisions as established, determined or amended

law; (a) a trustee or trust director in accordance with applicable

(b) court order; or

(c) a nonjudicial settlement agreement under Section 46A-1-111 NMSA 1978;

I. "trust director" means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee. The person is a trust director whether or not the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or settlor of the trust; and

J. "trustee" includes an original, additional and successor trustee and a cotrustee.

## **Chapter 63 Section 3 Laws 2018**

### **SECTION 3. APPLICATION--PRINCIPAL PLACE OF ADMINISTRATION.--**

A. The Uniform Directed Trust Act applies to a trust, whenever created, that has its principal place of administration in New Mexico, subject to the following rules:

(1) if the trust was created before January 1, 2019, that act applies only to a decision or action occurring on or after that date; and

(2) if the principal place of administration of the trust is changed to New Mexico on or after January 1, 2019, that act applies only to a decision or action occurring on or after the date of the change.

B. Without precluding other means to establish a sufficient connection with the designated jurisdiction in a directed trust, the terms of the trust that designate the principal place of administration of the trust are valid and controlling if:

(1) a trustee's principal place of business is located in, or a trustee is a resident of, the designated jurisdiction;

(2) a trust director's principal place of business is located in, or a trust director is a resident of, the designated jurisdiction; or

(3) all or part of the administration occurs in the designated jurisdiction.

## **Chapter 63 Section 4 Laws 2018**

SECTION 4. COMMON LAW AND PRINCIPLES OF EQUITY.--The common law and principles of equity supplement the Uniform Directed Trust Act, except to the extent modified by that act or another law of New Mexico.

## **Chapter 63 Section 5 Laws 2018**

### SECTION 5. EXCLUSIONS.--

A. As used in this section, "power of appointment" means a power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership interest in, or another power of appointment over, trust property.

B. The Uniform Directed Trust Act does not apply to a:

(1) power of appointment;

(2) power to appoint or remove a trustee or trust director;

(3) power of a settlor over a trust to the extent the settlor has a power to revoke the trust;

(4) power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of:

(a) the beneficiary; or

(b) another beneficiary represented by the beneficiary under Sections 46A-3-301 through 46A-3-305 NMSA 1978 with respect to the exercise or nonexercise of the power; or

(5) power over a trust if:

(a) the terms of the trust provide that the power is held in a nonfiduciary capacity; and

(b) the power must be held in a nonfiduciary capacity to achieve the settlor's tax objectives under the United States Internal Revenue Code of 1986, as amended, and regulations issued thereunder, as amended.

C. Unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in, or power of appointment



over, trust property that is exercisable while the person is not serving as a trustee is a power of appointment and not a power of direction.

## **Chapter 63 Section 6 Laws 2018**

### SECTION 6. POWERS OF TRUST DIRECTOR.--

A. Subject to Section 7 of the Uniform Directed Trust Act, the terms of a trust may grant a power of direction to a trust director.

B. Unless the terms of a trust provide otherwise:

(1) a trust director may exercise any further power appropriate to the exercise or nonexercise of a power of direction granted to the director under Subsection A of this section; and

(2) trust directors with joint powers shall act by majority decision.

## **Chapter 63 Section 7 Laws 2018**

SECTION 7. LIMITATIONS ON TRUST DIRECTOR.--A trust director is subject to the same rules as a trustee in a like position and under similar circumstances in the exercise or nonexercise of a power of direction or further power under Paragraph (1) of Subsection B of Section 6 of the Uniform Directed Trust Act regarding:

A. a payback provision in the terms of the trust necessary to comply with the reimbursement requirements of medicaid law in Section 1917 of the Social Security Act, 42 U.S.C. Section 1396p(d)(4)(A), as amended, and regulations issued thereunder, as amended; and

B. a charitable interest in the trust, including notice regarding the interest to the attorney general.

## **Chapter 63 Section 8 Laws 2018**

### SECTION 8. DUTY AND LIABILITY OF TRUST DIRECTOR.--

A. Subject to Subsection B of this section, with respect to a power of direction or a further power under Paragraph (1) of Subsection B of Section 6 of the Uniform Directed Trust Act:

(1) a trust director has the same fiduciary duty and liability in the exercise or nonexercise of the power:

(a) if the power is held individually, as a sole trustee in a like position and under similar circumstances; or

(b) if the power is held jointly with a trustee or another trust director, as a cotrustee in a like position and under similar circumstances; and

(2) the terms of the trust may vary the director's duty or liability to the same extent the terms of the trust could vary the duty or liability of a trustee in a like position and under similar circumstances.

B. Unless the terms of a trust provide otherwise, if a trust director is licensed, certified or otherwise authorized or permitted by law other than the Uniform Directed Trust Act to provide health care in the ordinary course of the director's business or practice of a profession, to the extent the director acts in that capacity, the director has no duty or liability under that act.

C. The terms of a trust may impose a duty or liability on a trust director in addition to the duties and liabilities imposed by the Uniform Directed Trust Act.

## **Chapter 63 Section 9 Laws 2018**

### **SECTION 9. DUTY AND LIABILITY OF DIRECTED TRUSTEE.--**

A. Subject to Subsection B of this section, a directed trustee shall take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction or further power under Paragraph (1) of Subsection B of Section 6 of the Uniform Directed Trust Act, and the trustee is not liable for the action.

B. A directed trustee shall not comply with a trust director's exercise or nonexercise of a power of direction or further power under Paragraph (1) of Subsection B of Section 6 of the Uniform Directed Trust Act to the extent that, by complying, the trustee would engage in willful misconduct.

C. An exercise of a power of direction under which a trust director may release a trustee or another trust director from liability for breach of trust is not effective if:

(1) the breach involved the trustee's or other director's willful misconduct;

(2) the release was induced by improper conduct of the trustee or other director in procuring the release; or

(3) at the time of the release, the director did not know the material facts relating to the breach.

D. A directed trustee that has reasonable doubt about its duty under this section may petition the district court for instructions.

E. The terms of a trust may impose a duty or liability on a directed trustee in addition to the duties and liabilities imposed by the Uniform Directed Trust Act.

## **Chapter 63 Section 10 Laws 2018**

### **SECTION 10. DUTY TO PROVIDE INFORMATION TO TRUST DIRECTOR OR TRUSTEE.--**

A. Subject to Section 11 of the Uniform Directed Trust Act, a trustee shall provide information to a trust director to the extent the information is reasonably related both to:

- (1) the powers or duties of the trustee; and
- (2) the powers or duties of the director.

B. Subject to Section 11 of the Uniform Directed Trust Act, a trust director shall provide information to a trustee or another trust director to the extent the information is reasonably related both to:

- (1) the powers or duties of the director; and
- (2) the powers or duties of the trustee or other director.

C. A trustee that acts in reliance on information provided by a trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless by so acting the trustee engages in willful misconduct.

D. A trust director that acts in reliance on information provided by a trustee or another trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless by so acting the trust director engages in willful misconduct.

## **Chapter 63 Section 11 Laws 2018**

### **SECTION 11. NO DUTY TO MONITOR, INFORM OR ADVISE.--**

A. Unless the terms of a trust provide otherwise:

- (1) a trustee does not have a duty to:
  - (a) monitor a trust director; or
  - (b) inform or give advice to a settlor, beneficiary, trustee or trust director concerning an instance in which the trustee might have acted differently than the director; and

(2) by taking an action described in Paragraph (1) of this subsection, a trustee does not assume the duty excluded by that paragraph.

B. Unless the terms of a trust provide otherwise:

(1) a trust director does not have a duty to:

(a) monitor a trustee or another trust director; or

(b) inform or give advice to a settlor, beneficiary, trustee or another trust director concerning an instance in which the director might have acted differently than a trustee or another trust director; and

(2) by taking an action described in Paragraph (1) of this subsection, a trust director does not assume the duty excluded by that paragraph.

## **Chapter 63 Section 12 Laws 2018**

SECTION 12. APPLICATION TO COTRUSTEE.--The terms of a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power of the other cotrustee to the same extent that, in a directed trust, a directed trustee is relieved from duty and liability with respect to a trust director's power of direction under Sections 9 through 11 of the Uniform Directed Trust Act.

## **Chapter 63 Section 13 Laws 2018**

SECTION 13. LIMITATION OF ACTION AGAINST TRUST DIRECTOR.--

A. An action against a trust director for breach of trust shall be commenced within the same limitation period provided for in Section 46A-10-1005 NMSA 1978 for an action for breach of trust against a trustee in a like position and under similar circumstances.

B. A report or accounting has the same effect on the limitation period for an action against a trust director for breach of trust that the report or accounting would have under Section 46A-10-1005 NMSA 1978 in an action for breach of trust against a trustee in a like position and under similar circumstances.

## **Chapter 63 Section 14 Laws 2018**

SECTION 14. DEFENSES IN ACTION AGAINST TRUST DIRECTOR.--In an action against a trust director for breach of trust, the director may assert the same defenses a trustee in a like position and under similar circumstances could assert in an action for breach of trust against the trustee.

## **Chapter 63 Section 15 Laws 2018**

### SECTION 15. JURISDICTION OVER TRUST DIRECTOR.--

A. By accepting appointment as a trust director of a trust subject to the Uniform Directed Trust Act, the director submits to the personal jurisdiction of the courts of New Mexico regarding any matter related to a power or duty of the director.

B. This section does not preclude other methods of obtaining jurisdiction over a trust director.

## **Chapter 63 Section 16 Laws 2018**

SECTION 16. OFFICE OF TRUST DIRECTOR.--Unless the terms of a trust provide otherwise, the rules applicable to a trustee apply to a trust director regarding the following matters:

A. acceptance under Section 46A-7-701 NMSA 1978;

B. giving of bond to secure performance under Section 46A-7-702 NMSA 1978;

C. reasonable compensation under Section 46A-7-708 NMSA 1978;

D. resignation under Section 46A-7-705 NMSA 1978;

E. removal under Section 46A-7-706 NMSA 1978; and

F. vacancy and appointment of successor under Section 46A-7-704 NMSA 1978.

## **Chapter 63 Section 17 Laws 2018**

SECTION 17. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Directed Trust 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 63 Section 18 Laws 2018**

SECTION 18. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Directed Trust 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 63 Section 19 Laws 2018**

SECTION 19. Section 46-12-102 NMSA 1978 (being Laws 2016, Chapter 72, Section 1-102) is amended to read:

"46-12-102. DEFINITIONS.--As used in the Uniform Trust Decanting Act:

A. "appointive property" means the property or property interest subject to a power of appointment;

B. "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of 26 U.S.C. Section 2041(b)(1)(A), as amended, or 26 U.S.C. Section 2514(c)(1), as amended, and any applicable regulations;

C. "authorized fiduciary" means:

(1) a trustee or other fiduciary, other than a settlor, that has discretion to distribute, or direct a trustee to distribute, part or all of the principal of the first trust to one or more current beneficiaries;

(2) a special fiduciary appointed under Section 46-12-109 NMSA 1978; or

(3) a special-needs fiduciary under Section 46-12-113 NMSA 1978;

D. "beneficiary" means a person that:

(1) has a present or future, vested or contingent, beneficial interest in a trust;

(2) holds a power of appointment over trust property; or

(3) is an identified charitable organization that will or may receive distributions under the terms of the trust;

E. "charitable interest" means an interest in a trust that:

(1) is held by an identified charitable organization and makes the organization a qualified beneficiary;

(2) benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or

(3) is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary;

F. "charitable organization" means:

(1) a person, other than an individual, organized and operated exclusively for charitable purposes; or

(2) a government or governmental subdivision, agency or instrumentality, to the extent it holds funds exclusively for a charitable purpose;

G. "charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose or another purpose the achievement of which is beneficial to the community;

H. "court" means the district court;

I. "current beneficiary" means a beneficiary that, on the date the beneficiary's qualification is determined, is a distributee or permissible distributee of trust income or principal. "Current beneficiary":

(1) includes the holder of a presently exercisable general power of appointment; and

(2) does not include a person that is a beneficiary only because the person holds any other power of appointment;

J. "decanting power" or "the decanting power" means the power of an authorized fiduciary under the Uniform Trust Decanting Act to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust;

K. "expanded distributive discretion" means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard;

L. "first trust" means a trust over which an authorized fiduciary may exercise the decanting power;

M. "first-trust instrument" means the trust instrument for a first trust;

N. "general power of appointment" means a power of appointment exercisable in favor of a powerholder, the powerholder's estate, a creditor of the powerholder or a creditor of the powerholder's estate;

O. "jurisdiction", with respect to a geographic area, includes a state or country;

P. "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;

Q. "power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. "Power of appointment" does not include a power of attorney;

R. "powerholder" means a person in which a donor creates a power of appointment;

S. "presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. "Presently exercisable power of appointment":

(1) includes a power of appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable standard or the passage of a specified time only after:

(a) the occurrence of the specified event;

(b) the satisfaction of the ascertainable standard; or

(c) the passage of the specified time; and

(2) does not include a power exercisable only at the powerholder's death;

T. "qualified beneficiary" means a beneficiary that on the date the beneficiary's qualification is determined:

(1) is a distributee or permissible distributee of trust income or principal;

(2) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in Paragraph (1) of this subsection terminated on that date without causing the trust to terminate; or



(3) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;

U. "reasonably definite standard" means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. Section 674(b)(5)(A), as amended, and any applicable regulations;

V. "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;

W. "second trust" means:

(1) a first trust after modification under the Uniform Trust Decanting Act; or

(2) a trust to which a distribution of property from a first trust is or may be made under the Uniform Trust Decanting Act;

X. "second-trust instrument" means the trust instrument for a second trust;

Y. "settlor", except as otherwise provided in Section 46-12-125 NMSA 1978, means a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to the person's contribution except to the extent that another person has power to revoke or withdraw that portion;

Z. "sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound or process;

AA. "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. "State" includes an Indian tribe, pueblo, nation or band located within the United States and recognized by federal law or formally acknowledged by a state of the United States;

BB. "terms of the trust" means:

(1) except as otherwise provided in Paragraph (2) of this subsection, the manifestation of the settlor's intent regarding a trust's provisions as:

(a) expressed in the trust instrument; or

(b) established by other evidence that would be admissible in a judicial proceeding; or

(2) the trust's provisions as established, determined or amended by:

(a) a trustee or trust director in accordance with applicable law;

(b) court order; or

(c) a nonjudicial settlement agreement under Section 46A-1-111 NMSA 1978; and

CC. "trust instrument" means a record executed by the settlor to create a trust or by any person to create a second trust that contains some or all of the terms of the trust, including any amendments."

## **Chapter 63 Section 20 Laws 2018**

SECTION 20. Section 46A-1-103 NMSA 1978 (being Laws 2003, Chapter 122, Section 1-103, as amended) is amended to read:

"46A-1-103. DEFINITIONS.--As used in the Uniform Trust Code:

A. "action", with respect to an act of a trustee, includes a failure to act;

B. "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of Subparagraph (A) of Paragraph (1) of Subsection (b) of Section 2041 and Paragraph (1) of Subsection (c) of Section 2514 of the Internal Revenue Code of 1986, as amended;

C. "beneficiary" means a person that:

(1) has a present or future beneficial interest in a trust, vested or contingent; or

(2) in a capacity other than that of trustee, holds a power of appointment over trust property;

D. "charitable trust" means a trust or portion of a trust created for a charitable purpose described in Subsection A of Section 46A-4-405 NMSA 1978;

E. "conservator" means a person appointed by the court to administer the estate of a minor or adult individual;

F. "environmental law" means a federal, state or local law, rule, regulation or ordinance relating to protection of the environment;

G. "guardian" means a person appointed by the court or a parent to make decisions regarding the support, care, education, health and welfare of a minor or adult person. "Guardian" does not include a guardian ad litem;

H. "interests of the beneficiaries" means the beneficial interests provided in the terms of the trust;

I. "jurisdiction", with respect to a geographic area, includes a state or country;

J. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity;

K. "power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable:

(1) by a trustee and limited by an ascertainable standard; or

(2) by another person only upon consent of the trustee or a person holding an adverse interest;

L. "property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein;

M. "qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(1) is a distributee or permissible distributee of trust income or principal;

(2) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in Paragraph (1) of this subsection terminated on that date without causing the trust to terminate; or

(3) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;

N. "revocable", as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest;

O. "settlor" means a person, including a testator, who creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution, except to the extent another person has the power to revoke or withdraw that portion;

P. "spendthrift provision" means a term of a trust that restrains both voluntary and involuntary transfer of a beneficiary's interest;

Q. "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. "State" includes an Indian tribe, pueblo, nation or band recognized by federal law or formally acknowledged by a state;

R. "terms of a trust" means:

(1) except as otherwise provided in Paragraph (2) of this subsection, the manifestation of the settlor's intent regarding a trust's provisions as:

(a) expressed in the trust instrument; or

(b) established by other evidence that would be admissible in a judicial proceeding; or

(2) the trust's provisions as established, determined or amended by:

(a) a trustee or trust director in accordance with applicable law;

(b) court order; or

(c) a nonjudicial settlement agreement under Section 46A-1-111 NMSA 1978;

S. "trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto; and

T. "trustee" includes an original trustee, an additional trustee, a successor trustee and a co-trustee."

## **Chapter 63 Section 21 Laws 2018**

SECTION 21. Section 46A-1-105 NMSA 1978 (being Laws 2003, Chapter 122, Section 1-105, as amended) is amended to read:

"46A-1-105. DEFAULT AND MANDATORY RULES.--

A. Except as otherwise provided in the terms of the trust, the Uniform Trust Code governs the duties and powers of a trustee, relations among trustees and the rights and interests of a beneficiary.

B. The terms of a trust prevail over any provision of the Uniform Trust Code except:

(1) the requirements for creating a trust;

(2) subject to Sections 9, 11 and 12 of the Uniform Directed Trust Act, the duty of a trustee to act in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries;

(3) the requirement that a trust and its terms be for the benefit of its beneficiaries and that the trust have a purpose that is lawful, not contrary to public policy and possible to achieve;

(4) the power of the court to modify or terminate a trust under Sections 46A-4-410 through 46A-4-416 NMSA 1978;

(5) the effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in Chapter 46A, Article 5 NMSA 1978;

(6) the power of the court under Section 46A-7-702 NMSA 1978 to require, dispense with or modify or terminate a bond;

(7) the power of the court under Subsection B of Section 46A-7-708 NMSA 1978 to adjust a trustee's compensation specified in the terms of the trust that is unreasonably low or high;

(8) the duty under Paragraphs (2) and (3) of Subsection B of Section 46A-8-813 NMSA 1978 to notify qualified beneficiaries of an irrevocable trust who have attained twenty-five years of age of the existence of the trust, of the identity of the trustee and of their right to request reports of the trustee;

(9) except as otherwise provided in Subsection F of Section 46A-8-813 NMSA 1978, the duty under Subsection A of Section 46A-8-813 NMSA 1978 to respond to the request of a qualified beneficiary of an irrevocable trust for a trustee's reports and other information reasonably related to the administration of a trust;

(10) the effect of an exculpatory term under Section 46A-10-1008 NMSA 1978;

(11) the rights under Sections 46A-10-1010 through 46A-10-1013 NMSA 1978 of a person other than a trustee or beneficiary;

(12) periods of limitation for commencing a judicial proceeding; provided, however, any such period may be increased;

(13) the power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and

(14) the subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in Sections 46A-2-203 and 46A-2-204 NMSA 1978."

## **Chapter 63 Section 22 Laws 2018**

SECTION 22. Section 46A-6-603 NMSA 1978 (being Laws 2003, Chapter 122, Section 6-603, as amended) is amended to read:

"46A-6-603. SETTLOR'S POWERS--POWERS OF WITHDRAWAL.--

A. While a trust is revocable, the trustee may follow a direction of the settlor that is contrary to the terms of the trust.

B. While a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

C. During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power."

## **Chapter 63 Section 23 Laws 2018**

SECTION 23. Section 46A-7-703 NMSA 1978 (being Laws 2003, Chapter 122, Section 7-703) is amended to read:

"46A-7-703. CO-TRUSTEES.--

A. Co-trustees who are unable to reach a unanimous decision may act by majority decision.

B. If a vacancy occurs in a co-trusteeship, the remaining co-trustees may act for the trust.

C. Subject to Section 12 of the Uniform Directed Trust Act, a co-trustee shall participate in the performance of a trustee's function unless the co-trustee is

unavailable to perform the function because of absence, illness, disqualification under other law or other temporary incapacity, or the co-trustee has properly delegated the performance of the function to another trustee.

D. If a co-trustee is unavailable to perform duties because of absence, illness, disqualification under other law or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining co-trustee or a majority of the remaining co-trustees may act for the trust.

E. A trustee shall not delegate to a co-trustee the performance of a function the settlor reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.

F. Except as otherwise provided in Subsection G of this section, a trustee who does not join in an action of another trustee is not liable for the action.

G. Subject to Section 12 of the Uniform Directed Trust Act, each trustee shall exercise reasonable care to:

and (1) prevent a co-trustee from committing a serious breach of trust;

(2) compel a co-trustee to redress a serious breach of trust.

H. A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any co-trustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust."

## **Chapter 63 Section 24 Laws 2018**

SECTION 24. REPEAL.--Section 46A-8-808 NMSA 1978 (being Laws 2003, Chapter 122, Section 8-808) is repealed.

## **Chapter 63 Section 25 Laws 2018**

SECTION 25. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2019.

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Senate Bill 101

Approved March 2, 2018

# **LAWS 2018, CHAPTER 64**

## **AN ACT**

RELATING TO FINANCIAL INSTITUTIONS; PROVIDING ADDITIONAL REQUIREMENTS FOR CERTIFICATES, MINIMUM CAPITAL, FIDELITY BONDS AND INSURANCE; CLARIFYING POWERS OF THE DIRECTOR; PROVIDING FOR INVESTIGATIONS AND INVESTIGATIVE FEES; PROVIDING FOR THE REORGANIZATION OF A TRUST COMPANY; PROVIDING PENALTIES; AMENDING AND REPEALING SECTIONS OF THE TRUST COMPANY ACT.

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

### **Chapter 64 Section 1 Laws 2018**

SECTION 1. Section 58-9-2 NMSA 1978 (being Laws 1973, Chapter 191, Section 2, as amended) is amended to read:

"58-9-2. DEFINITIONS.--As used in the Trust Company Act:

A. "director" means the director of the financial institutions division of the regulation and licensing department;

B. "trust business" means the holding out by a person, legal entity or corporation to the public at large by advertising, solicitation or other means that the person, legal entity or corporation is available to act as a fiduciary in this state or is accepting and undertaking to perform the duties of a fiduciary in the regular course of its business;

C. "trust company" means a corporation holding a certificate issued pursuant to the Trust Company Act;

D. "certificate" means a certificate of authority issued pursuant to the Trust Company Act to engage in trust business;

E. "fiduciary" means executor, administrator, conservator or trustee;

F. "nonprofit corporation" means a nonprofit corporation as defined in the Nonprofit Corporation Act that was formed and is operating a pooled trust in compliance with the requirements of 42 U.S.C. 1396p(d)(4) to provide trust services for individuals who are disabled, and the nonprofit corporation is not otherwise engaged in the trust business. As used in this subsection, "disabled" has the meaning set forth in 42 U.S.C. 1382c(a)(3); and

G. "division" means the financial institutions division of the regulation and licensing department."



## **Chapter 64 Section 2 Laws 2018**

SECTION 2. Section 58-9-4 NMSA 1978 (being Laws 1973, Chapter 191, Section 4, as amended) is amended to read:

"58-9-4. CERTIFICATE REQUIRED--COMPLIANCE WITH STATE AND FEDERAL LAW--SEPARATION OF TRUST FUND AND INVESTMENTS.--

A. No person, legal entity or corporation shall engage in the trust business without first obtaining a certificate from the director; provided, however, that a bank having its principal office in this state or an out-of-state bank not having an established office in this state otherwise authorized under state or federal laws to engage in the trust business or a savings and loan association having its principal office in this state acting as trustee or custodian pursuant to Section 58-10-35 NMSA 1978 may engage in trust business to the extent permitted in that section without obtaining a certificate under the Trust Company Act.

B. A trust company shall conduct such business in compliance with all state and federal laws, and all rules promulgated pursuant to those laws, including the Trust Company Act, the Uniform Probate Code, the Uniform Prudent Investor Act and the Uniform Trust Code.

C. A trust company shall keep all trust funds and investments separate and apart from the assets of the trust company, and all investments made by the trust company as a fiduciary shall be designated so that the trust or estate to which such investment belongs is clearly identified."

## **Chapter 64 Section 3 Laws 2018**

SECTION 3. Section 58-9-5 NMSA 1978 (being Laws 1973, Chapter 191, Section 5, as amended by Laws 2013, Chapter 88, Section 2 and by Laws 2013, Chapter 97, Section 2) is amended to read:

"58-9-5. APPLICATION FOR CERTIFICATE--FEE.--

A. An application for a certificate shall be in writing, in such form as the director prescribes, verified under oath and supported by such information, data and records as the director may require.

B. Each application for a certificate shall be accompanied by an application fee of one thousand dollars (\$1,000), made payable to the division. No portion of the application fee shall be refunded.

C. An application for a certificate shall be accompanied by an oath sworn by each proposed member of the board of directors of the trust company stating that the board member will diligently and honestly administer the affairs of the trust company

and will not knowingly violate or knowingly permit to be violated any state or federal laws or any rules promulgated pursuant to those laws, including the Trust Company Act, the Uniform Probate Code, the Uniform Prudent Investor Act or the Uniform Trust Code. The oath shall be in such form as the director prescribes and shall be certified by a notary public.

D. On and after July 1, 2018, any board member newly elected or appointed to the board of directors of a trust company certified under the Trust Company Act shall, immediately upon election to the board, swear and cause to be transferred to the director the oath of a trust company board member as set forth in Subsection C of this section."

## **Chapter 64 Section 4 Laws 2018**

SECTION 4. Section 58-9-6 NMSA 1978 (being Laws 1973, Chapter 191, Section 6, as amended by Laws 2013, Chapter 88, Section 3 and by Laws 2013, Chapter 97, Section 3) is amended to read:

"58-9-6. MINIMUM CAPITAL.--

A. A certificate shall not be issued to an applicant for certification pursuant to the Trust Company Act having capital of less than five hundred thousand dollars (\$500,000).

B. The minimum capital requirement shall be waived for nonprofit corporations."

## **Chapter 64 Section 5 Laws 2018**

SECTION 5. Section 58-9-7 NMSA 1978 (being Laws 1973, Chapter 191, Section 7) is amended to read:

"58-9-7. FIDELITY BOND--INSURANCE REQUIRED--EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.--

A. No corporation shall obtain a certificate without securing and filing with the director a fidelity bond in the following amounts:

| Trust Assets Managed          | Fidelity Bond Amounts |
|-------------------------------|-----------------------|
| by a Fiduciary                |                       |
| \$3,000,000 or less           | \$500,000             |
| More than \$3,000,000 but not |                       |

|  |                       |
|--|-----------------------|
| more than \$15,000,000                                       | \$750,000             |
| More than \$15,000,000 but not<br>more than \$25,000,000     | \$1,000,000           |
| More than \$25,000,000 but not<br>more than \$50,000,000     | \$1,500,000           |
| More than \$50,000,000 but not<br>more than \$75,000,000     | \$2,000,000           |
| More than \$75,000,000 but not<br>more than \$100,000,000    | \$2,750,000           |
| More than \$100,000,000 but not<br>more than \$500,000,000   | \$3,500,000           |
| More than \$500,000,000 but not<br>more than \$1,000,000,000 | \$5,000,000           |
| More than \$1,000,000,000 but not<br>\$6,000,000             |                       |
| \$6,000,000 plus   |                       |
|  | \$1,000,000 for every |
|  | \$1,000,000,000 over  |
|  | \$2,000,000,000.      |

B. A trust company shall file a signed copy of its fidelity bond with the director, and the fidelity bond shall remain a part of the division's records.

C. Every fidelity bond filed with the director by a trust company pursuant to Subsection A of this section shall contain a provision prohibiting the bond company from canceling such fidelity bond for failure to pay the premium unless the bond company files a written notice with the director at least ten days before canceling the fidelity bond. Every fidelity bond filed with the director by a trust company pursuant to Subsection A of

this section shall contain a provision prohibiting the bond company from canceling such fidelity bond for any other reason unless the bond company files a written notice with the director at least thirty days before canceling the fidelity bond.

D. Except as provided in Subsection E of this section, a fidelity bond secured and filed pursuant to this section shall contain a deductible clause not to exceed fifteen percent of the face amount of the fidelity bond.

E. A trust company may submit a written request to the director for approval of a fidelity bond with a deductible clause in excess of fifteen percent of the face amount of the bond. Such written request must be submitted not less than ninety days prior to the expiration of any fidelity bond for the trust company previously filed with the director. If the director has not issued written approval for the trust company to secure and file a fidelity bond with a deductible clause in excess of fifteen percent within thirty days of the expiration of the trust company's prior fidelity bond, the request of the trust company shall be deemed denied.

F. On or before March 1 of each year beginning with the year 2019, every trust company shall increase or adjust its fidelity bond to an amount equal to the amount required pursuant to Subsection A of this section.

G. The fidelity bond required by this section shall be for the benefit of:

(1) any person damaged by an act or acts of a trust company or its directors, officers or employees as a result of a violation of the provisions of, or any rule promulgated pursuant to, the Trust Company Act, the Uniform Probate Code, the Uniform Prudent Investor Act or the Uniform Trust Code;

(2) any person damaged by the negligence, fraud or embezzlement of a trust company or its directors, officers or employees; or

(3) any person damaged by any other breach of trust of any trust company.

H. The amount of a fidelity bond required by this section may be reduced by the director for nonprofit corporations that have otherwise established financial responsibility to the director's satisfaction.

I. A reduction in the amount of a required fidelity bond approved by the director pursuant to Subsection H of this section shall be reviewed by the director on an annual basis, at which time the reduction may be terminated upon ninety days' written notice by the director to the nonprofit corporation.

J. The director shall revoke the certificate of any trust company that fails to maintain a bond or to otherwise supply evidence of financial responsibility as required by this section.

K. The board of directors of a trust company shall acquire suitable insurance to protect the trust company against burglary, robbery, forgery, theft, fraud, embezzlement and other similar insurable losses to which the trust company may be exposed in the operation of the trust company.

L. The board of directors of a trust company shall procure errors and omissions insurance of at least five hundred thousand dollars (\$500,000).

M. At least once each year, the board of directors of a trust company shall review the insurance coverage as set forth in Subsections K and L of this section to determine the adequacy of coverage in relation to the exposure of the trust company. The minimum amount of insurance required pursuant to this section does not automatically represent adequate insurance coverage in relation to the exposure. The actions of the board of directors shall be recorded in the minutes of the board. Immediately after procuring the insurance as required by Subsections K and L of this section, the board of directors shall file copies of the insurance policies with the director.

N. The director may revoke the certificate of any trust company that fails to maintain insurance as required by Subsections K and L of this section.

O. A trust company may be determined by the director to have demonstrated a lack of financial responsibility when any of the following nonexclusive conditions exist:

(1) the actual cash market value of the trust company's assets is less than its liabilities; or

(2) the trust company fails to pay, in the manner commonly accepted by business practices, its obligations when due.

P. A trust company may be determined by the director to be in an unsafe and unsound condition when any one of the following nonexclusive conditions exist:

(1) the trust company fails to safely manage its operations;

(2) the trust company fails to provide services to its trust customers pursuant to the trust company's fiduciary duty; or

(3) the trust company fails to manage and monitor its operational and financial risks."

## **Chapter 64 Section 6 Laws 2018**

SECTION 6. Section 58-9-8 NMSA 1978 (being Laws 1973, Chapter 191, Section 8, as amended) is amended to read:

"58-9-8. PROCEDURE FOR GRANTING OR DENYING CERTIFICATE.--

A. Upon the filing of an application for a certificate, the director shall make or cause to be made a careful investigation and examination and shall issue a certificate if the director finds:

(1) that the persons who will serve as directors or officers, insofar as those persons are known, are qualified to be fiduciaries by character and experience and that the financial status of the stockholders, directors and officers is consistent with their responsibilities and duties as fiduciaries; for nonprofit corporations, any employee responsible for trust management shall be qualified to be a fiduciary by character and experience;

(2) that the name of the proposed company is not deceptively similar to that of another trust company or bank or is not otherwise misleading;

(3) that the capital and surplus are not less than the required minimum, except that this requirement shall not apply to nonprofit corporations; and

(4) that there is a need for trust facilities or additional trust facilities, as the case may be, in the community where the proposed trust company is to be located.

B. The director may consider and inquire into such other facts and circumstances bearing on the proposed trust company and its relation to its locality as in the director's opinion may be relevant.

C. The certificate may be granted or denied without hearing, but the director may, and at the request of the applicant shall, fix a date for a hearing on the application. At the hearing, any person may be heard with reference to the facts to be investigated."

## **Chapter 64 Section 7 Laws 2018**

SECTION 7. Section 58-9-9 NMSA 1978 (being Laws 1973, Chapter 191, Section 9, as amended) is amended to read:

"58-9-9. POWERS OF DIRECTOR.--In addition to other powers conferred by the Trust Company Act, the director may:

A. examine the business and affairs of each trust company at least once each year and at such other times and to such extent as the director deems necessary or advisable. The expense of every examination shall be paid by the corporation examined, in such amount as the director certifies to be just and reasonable;

B. regulate the procedure and practice at hearings;

C. implement by order and rule the Trust Company Act; in making orders and rules to implement the Trust Company Act, the director shall act in the interest of promoting and maintaining a sound trust company system, the security of assets and trust accounts and the protection of persons utilizing trust services;

D. obtain restraining orders and injunctions to prevent violation of and enforce compliance with the Trust Company Act, and orders and rules promulgated pursuant to the Trust Company Act, the Uniform Probate Code, the Uniform Prudent Investor Act and the Uniform Trust Code;

E. order any person or trust company to cease violating the Trust Company Act, orders and rules promulgated pursuant to the Trust Company Act, the Uniform Probate Code, the Uniform Prudent Investor Act or the Uniform Trust Code, or to cease engaging in breaches of trust. A copy of such orders shall be mailed to each director of the trust company involved;

F. suspend, after notice and hearing, any officer or director, or any employee of a nonprofit corporation, for fraud, embezzlement or failure to comply with the Trust Company Act or orders or rules promulgated pursuant to the Trust Company Act, the Uniform Probate Code, the Uniform Prudent Investor Act or the Uniform Trust Code; and

G. subpoena witnesses, compel their attendance, require the production of evidence, administer an oath and examine any person under oath in connection with any subject relating to a duty imposed upon or a power vested in the director."

## **Chapter 64 Section 8 Laws 2018**

SECTION 8. A new section of the Trust Company Act is enacted to read:

"APPEALS.--

A. A person aggrieved by a final order of the director may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

B. The commencement of proceedings pursuant to Subsection A of this section does not, unless specifically ordered by the court, operate as a stay of the director's order."

## **Chapter 64 Section 9 Laws 2018**

SECTION 9. Section 58-9-10 NMSA 1978 (being Laws 1973, Chapter 191, Section 10, as amended by Laws 2013, Chapter 88, Section 4 and by Laws 2013, Chapter 97, Section 4) is amended to read:

"58-9-10. IMPAIRMENT OF CAPITAL--UNSAFE CONDITIONS--  
RECEIVERSHIP.--

A. If it appears to the director that the capital of a trust company is either reduced or impaired below the minimum capital requirements set forth in Section 58-9-6 NMSA 1978, except for nonprofit corporations, the director shall order the company to make good any deficit within sixty days of the date of the order and may restrict and regulate the operation of the trust business until the capital is restored.

B. If the deficiency in capital has not been made good within the prescribed time, the director may apply to the district court in the county in which the principal office of the company is located to have a receiver appointed for the liquidation or rehabilitation of the company. The expense of the receivership shall be paid out of the assets of the trust company.

C. The director may investigate, upon complaint or otherwise, if it appears that a trust company is conducting business in an unsafe, unsound, financially irresponsible or injurious manner or in violation of the Trust Company Act, or the rules promulgated pursuant to that act, the Uniform Probate Code, the Uniform Prudent Investor Act or the Uniform Trust Code, or when it appears that any person is engaging in trust business without being certified pursuant to the Trust Company Act.

D. If it appears upon sufficient ground or evidence satisfactory to the director that a trust company has engaged in or is about to engage in any act or practice in violation of the Trust Company Act, or any rule or order pursuant to that act, or the Uniform Probate Code, the Uniform Prudent Investor Act or the Uniform Trust Code, to the extent that the security of the assets and trust accounts or the protection of persons utilizing the trust services have been or may be jeopardized, the director may summarily order the trust company to cease and desist from that act or practice, or the director may apply to the district court of the first judicial district of Santa Fe county to enjoin the trust company in engaging in the act or practice and to enforce compliance with the Trust Company Act, the Uniform Probate Code, the Uniform Prudent Investor Act or the Uniform Trust Code, or for any other appropriate equitable relief. Upon a proper showing, if a temporary restraining order, a preliminary injunction or a permanent injunction is granted, a receiver may be appointed for the defendant or defendant's assets, and the certification of the trust company may be canceled and such additional or other equitable remedies may be provided as the court deems appropriate. The director shall not be required to post a bond.

E. If an investigation pursuant to Subsection C of this section reveals that a trust company is conducting business in an unsafe, unsound or injurious manner, or in violation of the Trust Company Act or rules promulgated pursuant to that act, the Uniform Probate Code, the Uniform Prudent Investor Act or the Uniform Trust Code, or that any person is engaging in trust business without being certified pursuant to the Trust Company Act, the trust company or person investigated shall pay to the director



an investigation fee at the rate of one hundred fifty dollars (\$150) per day or fraction of a day for each authorized representative engaged in the investigation."

## **Chapter 64 Section 10 Laws 2018**

SECTION 10. Section 58-9-11 NMSA 1978 (being Laws 1973, Chapter 191, Section 11) is amended to read:

"58-9-11. DISCONTINUING BUSINESS--REORGANIZATION--CONTINUING JURISDICTION.--

A. Whenever any corporation desires to discontinue doing a trust business and surrenders its certificate or if its certificate is suspended or revoked, the company shall continue to be subject to the Trust Company Act for so long as it acts as a fiduciary with respect to any trust business previously undertaken.

B. A trust company seeking to relinquish its certificate by liquidation shall file an application for dissolution with the director. The application shall include a comprehensive plan for dissolution setting forth the proposed disposition of all assets and liabilities in reasonable detail to effect a liquidation. The plan of dissolution shall provide for the discharge or assumption of all the trust company's known and unknown claims and liabilities and for the transfer of all its responsibilities as a trustee to a successor trustee or trustees. Additionally, the application for dissolution shall include other evidence, certifications, affidavits, documents or information as the director may require demonstrating how assets and liabilities will be disposed of, the timetable for effecting disposition of the assets and liabilities and the trust company's proposal for addressing any claims that are asserted after the dissolution has been completed. The director shall examine the application for completeness and compliance with the requirements of this section, the business entity laws applicable to the required type of dissolution and applicable rules. The director may conduct a special examination of the trust company for purposes of evaluating the application.

C. A trust company seeking to reorganize, including any change in ownership of the corporation of ten percent or greater, shall file an application for reorganization with the director. The application shall include a comprehensive plan for reorganization setting forth the proposed disposition of all assets and liabilities in reasonable detail to effect a reorganization. The plan of reorganization shall provide for the assumption of all the trust company's known and unknown claims and liabilities and for the transfer of all its responsibilities as a trustee to a successor trustee or trustees. Additionally, the application for reorganization shall include other evidence, certifications, affidavits, documents or information as the director may require demonstrating how assets and liabilities will be treated and the trust company's proposal for addressing any claims that are asserted after the reorganization has been completed. The director shall examine the application for completeness and compliance with the requirements of this section, the business entity laws applicable to the required

type of reorganization and applicable rules. The director may conduct a special examination of the trust company for purposes of evaluating the application."

## **Chapter 64 Section 11 Laws 2018**

SECTION 11. Section 58-9-12 NMSA 1978 (being Laws 1973, Chapter 191, Section 12) is amended to read:

"58-9-12. PENALTY FOR NONCOMPLIANCE.--

A. It is unlawful for any corporation to carry on or conduct a trust company business or to advertise or hold itself out as being engaged in or doing a trust company business or to use in connection with its business the words "trust company" or words of similar import without first having complied with all the provisions of law relating to trust companies. All officers, directors or trustees of any corporation violating this section are guilty of a misdemeanor and shall be punished by a fine not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail for a definite term not exceeding one year or both.

B. Any person refusing or obstructing access to the director to any books, records or papers, refusing to furnish required information or hindering a full examination of the books, accounts, papers or finances of a trust company is guilty of a misdemeanor and shall be punished by a fine not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail for a definite term not exceeding one year or both."

## **Chapter 64 Section 12 Laws 2018**

SECTION 12. REPEAL.--Section 58-9-13 NMSA 1978 (being Laws 1973, Chapter 191, Section 13) is repealed.

## **Chapter 64 Section 13 Laws 2018**

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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Senate Bill 137, aa

Approved March 2, 2018

# **LAWS 2018, CHAPTER 65**

AN ACT

RELATING TO STATE BUILDINGS; AUTHORIZING STATE OFFICE BUILDING TAX REVENUE BONDS FOR A BUILDING; MAKING AN APPROPRIATION.

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

## **Chapter 65 Section 1 Laws 2018**

SECTION 1. STATE OFFICE BUILDING TAX REVENUE BONDS--  
AUTHORIZATION FOR A BUILDING.--

A. The New Mexico finance authority may issue and sell state office building tax revenue bonds in compliance with the State Building Bonding Act when the director of the facilities management division of the general services department certifies to the authority that the proceeds from the state office building tax revenue bonds are needed for the purpose specified in Subsection B of this section. The authority shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible. Net proceeds from the sale of the bonds, after providing for debt service until occupancy, are appropriated to the facilities management division of the general services department for expenditure in fiscal year 2018 and subsequent fiscal years for the purpose specified in Subsection B of this section.

B. The facilities management division of the general services department shall use the funds identified in Subsection A of this section for the planning, designing, acquiring, constructing, renovating, equipping and furnishing of a building in Bernalillo county, to be operated by the children, youth and families department, in an amount not to exceed twenty million dollars (\$20,000,000), plus an amount equal to the costs of issuing the revenue bonds, provided that the total amount of state office building tax revenue bonds outstanding at any one time shall not exceed one hundred fifteen million dollars (\$115,000,000).

C. Pursuant to Paragraph (2) of Subsection B of Section 6-21C-5 NMSA 1978, the facilities management division of the general services department is authorized to expend a portion of the state building bonding fund for required maintenance and repairs on the facility provided for in Subsection B of this section.

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Senate Bill 193

Approved March 2, 2018

## **LAWS 2018, CHAPTER 66**

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; CHANGING THE CAPITAL OUTLAY FUNDING FORMULA FOR DETERMINATION OF STATE-LOCAL MATCHES; ADDING DEFINITIONS.

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

## **Chapter 66 Section 1 Laws 2018**

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. "authority" means the public school facilities authority;

B. "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 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;

C. "constitutional special schools" means the New Mexico school for the blind and visually impaired and the New Mexico school for the deaf;

D. "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 performing arts centers, facilities for athletic competition, school district administration and facility and vehicle maintenance;

E. "council" means the public school capital outlay council;

F. "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;

G. "fund" means the public school capital outlay fund;

H. "maximum allowable gross square foot per student" means a determination made by applying the established maximum allowable square foot guidelines for educational facilities based on type of school and number of students in the current published New Mexico public school adequacy planning guide to the department's current year certified first reporting date membership;

I. "replacement cost per square foot" means the statewide cost per square foot as established by the council;

J. "school district" includes state-chartered charter schools and the constitutional special schools;

K. "school district population density" means the population density on a per square mile basis of a school district as estimated by the authority based on the most current tract level population estimates published by the United States census bureau; and

L. "school district population density factor" means zero when the school district population density is greater than fifty people per square mile, six-hundredths when the school district population density is greater than fifteen but less than fifty-one persons per square mile and twelve-hundredths when the school district population density is less than sixteen persons per square mile."

## **Chapter 66 Section 2 Laws 2018**

SECTION 2. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235, Section 5, as amended) is amended to read:

"22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--APPLICATION--GRANT ASSISTANCE.--

A. Applications for grant assistance, approval of applications, prioritization of projects and grant awards shall be conducted pursuant to the provisions of this section.

B. Except as provided in Sections 22-24-4.3, 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions govern grant assistance from the fund for a public school capital outlay project not wholly funded pursuant to Section 22-24-4.1 NMSA 1978:

(1) all school districts are eligible to apply for funding from the fund, regardless of percentage of indebtedness;

(2) priorities for funding shall be determined by using the statewide adequacy standards developed pursuant to Subsection C of this section; provided that:

(a) the council shall apply the standards to charter schools to the same extent that they are applied to other public schools;

(b) the council may award grants annually to school districts for the purpose of repairing, renovating or replacing public school building systems in existing buildings as identified in Section 22-24-4.6 NMSA 1978;

(c) the council shall adopt and apply adequacy standards appropriate to the unique needs of the constitutional special schools; and

(d) in an emergency in which the health or safety of students or school personnel is at immediate risk or in which there is a threat of significant property damage, the council may award grant assistance for a project using criteria other than the statewide adequacy standards;

(3) the council shall establish criteria to be used in public school capital outlay projects that receive grant assistance pursuant to the Public School Capital Outlay Act. In establishing the criteria, the council shall consider:

(a) the feasibility of using design, build and finance arrangements for public school capital outlay projects;

(b) the potential use of more durable construction materials that may reduce long-term operating costs;

(c) concepts that promote efficient but flexible utilization of space; and

(d) any other financing or construction concept that may maximize the dollar effect of the state grant assistance;

(4) no more than ten percent of the combined total of grants in a funding cycle shall be used for retrofitting existing facilities for technology infrastructure;

(5) no later than May 1 of each calendar year, the phase one formula 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), (10), (11) or (12) of this subsection, the amount to be distributed from the fund for an approved project shall equal the total project cost multiplied by 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) no later than May 1 of each calendar year, the phase two formula shall be calculated for each school district in accordance with the following procedure:

(a) the sum of the final prior five years net taxable value for a school district multiplied by nine ten thousandths for that school district is calculated for each school district;

(b) the maximum allowable gross square foot per student multiplied by the replacement cost per square foot divided by forty-five is calculated for each school district;

(c) the value calculated pursuant to Subparagraph (a) of this paragraph divided by the value calculated pursuant to Subparagraph (b) of this paragraph is calculated for each school district;

(d) in those instances in which the calculation pursuant to Subparagraph (c) of this paragraph yields a value equal to or greater than one, the phase two formula value shall be zero for the subject school district;

(e) in those instances in which the calculation pursuant to Subparagraph (c) of this paragraph yields a value of ninety-hundredths or more but less than one, the phase two formula value shall be one minus the value calculated in Subparagraph (c) of this paragraph; and

(f) in those instances in which the calculation pursuant to Subparagraph (c) of this paragraph yields a value less than ninety-hundredths, the phase two formula value shall be one minus the value calculated in Subparagraph (c) of this paragraph plus the school district population density factor;

(8) except as provided in Paragraph (6), (10), (11) or (12) of this subsection, the state share of a project approved by the council shall be funded within available resources pursuant to the provisions of this paragraph. The school district calculation for grant awards made in accordance with this section shall be pursuant to the following procedure, except that in no case shall the state share be less than six percent:

(a) for fiscal year 2020, the school district calculation shall be the sum of eight-tenths multiplied by the calculation in Paragraph (5) of this subsection and two-tenths multiplied by the calculation in Paragraph (7) of this subsection;

(b) for fiscal year 2021, the school district calculation shall be the sum of six-tenths multiplied by the calculation in Paragraph (5) of this subsection and four-tenths multiplied by the calculation in Paragraph (7) of this subsection;

(c) for fiscal year 2022, the school district calculation shall be the sum of four-tenths multiplied by the calculation in Paragraph (5) of this subsection and six-tenths multiplied by the calculation in Paragraph (7) of this subsection;

(d) for fiscal year 2023, the school district calculation shall be the sum of two-tenths multiplied by the calculation in Paragraph (5) of this subsection and eight-tenths multiplied by the calculation in Paragraph (7) of this subsection; and

(e) for fiscal year 2024 and thereafter, the school district calculation shall be the calculation specified in Paragraph (7) of this subsection;

(9) 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;

(10) 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;

(11) the council may adjust the amount of local share otherwise required if it determines that a school district has made a good-faith effort to use all of its local resources. Before making any adjustment to the local share, the council shall consider whether:

(a) the school district has insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and, for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(b) the school district: 1) has fewer than an average of eight hundred full-time-equivalent students on the 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;

(12) the local match for the constitutional special schools shall be set at fifty percent for projects that qualify under the educational adequacy category and one hundred percent for projects that qualify in the support spaces category; provided that the council may adjust or waive the amount of any direct appropriation offset to or local share required for the constitutional special schools if an applicant constitutional special school has insufficient or no local resources available; and

(13) no application for grant assistance from the fund shall be approved unless the council determines that:

(a) the public school capital outlay project is needed and included in the school district's five-year facilities plan among its top priorities;

(b) the school district has used its capital resources in a prudent manner;

(c) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(d) the school district has submitted a five-year facilities plan that includes: 1) enrollment projections; 2) a current preventive maintenance plan that has been approved by the council pursuant to Section 22-24-5.3 NMSA 1978 and that is followed by each public school in the district; 3) the capital needs of charter schools located in the school district; and 4) projections for the facilities needed in order to maintain a full-day kindergarten program;

(e) the school district is willing and able to pay any portion of the total cost of the public school capital outlay project that, according to Paragraph (5), (6), (10) or (11) 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 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."

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Senate Bill 30, aa

Approved March 2, 2018

## **LAWS 2018, CHAPTER 67**

### **AN ACT**

**RELATING TO GENERAL OBLIGATION BONDS; AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL OBLIGATION BONDS TO MAKE CAPITAL EXPENDITURES FOR SENIOR CITIZEN FACILITY IMPROVEMENTS AND ACQUISITIONS, FOR LIBRARY ACQUISITIONS, FOR THE PURCHASE OF SCHOOL**

BUSES AND FOR CAPITAL IMPROVEMENTS AND ACQUISITIONS AT INSTITUTIONS OF HIGHER EDUCATION, STATE SPECIAL SCHOOLS AND TRIBAL SCHOOLS; PROVIDING FOR A PROPERTY TAX LEVY FOR PAYMENT OF PRINCIPAL OF, INTEREST ON AND CERTAIN COSTS RELATED TO THE BONDS; REQUIRING APPROVAL OF THE REGISTERED VOTERS AT THE 2018 GENERAL ELECTION OF THE STATE; DECLARING AN EMERGENCY.

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

### **Chapter 67 Section 1 Laws 2018**

SECTION 1. SHORT TITLE.--This act may be cited as the "2018 Capital Projects General Obligation Bond Act".

### **Chapter 67 Section 2 Laws 2018**

SECTION 2. PURPOSE.--For the purpose of providing funds for capital expenditures as authorized in the 2018 Capital Projects General Obligation Bond Act, general obligation indebtedness of the state is authorized for the purposes and in the amounts set forth in Section 10 of that act.

### **Chapter 67 Section 3 Laws 2018**

SECTION 3. BOND TERMS.--

A. The state board of finance, except as limited by the 2018 Capital Projects General Obligation Bond Act, shall determine the terms, covenants and conditions of bonds issued pursuant to that act, including:

(1) date or dates of issue, denominations and maturities;

(2) principal amounts;

(3) rate or rates of interest; and

(4) provisions for redemption, including premiums, registration and refundability, whether the bonds are issued in one or more series and other covenants relating to the bonds and the issuance thereof.

B. The bonds shall be in such form as the state board of finance determines with an appropriate series designation and shall bear interest payable as set forth in the resolution of the state board of finance.

C. Payment of the principal of the bonds shall begin not more than two years after the date of their issuance, and the bonds shall mature not later than ten years after the date of their issuance. Both principal and interest shall be payable in

lawful money of the United States at the office of the paying agent within or without the state as the state board of finance may direct.

D. The bonds shall be executed with the manual or facsimile signature of the governor or the state treasurer, and the seal or a facsimile of the seal of the state shall be placed on each bond, except for any series of bonds issued in book entry or similar form without the delivery of physical securities.

E. The bonds shall be issued in accordance with the provisions of the 2018 Capital Projects General Obligation Bond Act, the Supplemental Public Securities Act and the Uniform Facsimile Signature of Public Officials Act and may be issued in accordance with the Public Securities Short-Term Interest Rate Act.

F. The full faith and credit of the state is pledged for the prompt payment when due of the principal of and interest on all bonds issued and sold pursuant to the 2018 Capital Projects General Obligation Bond Act.

## **Chapter 67 Section 4 Laws 2018**

SECTION 4. EXPENDITURES.--The proceeds from the sale of the bonds shall be expended solely for providing money to be distributed for the purposes and in amounts not to exceed the amounts set forth in Section 10 of the 2018 Capital Projects General Obligation Bond Act and to pay expenses incurred under Section 6 of that act. Any proceeds from the sale of the bonds that are not required for the purposes set forth in Sections 6 and 10 of that act shall be used for the purpose of paying the principal of and interest on the bonds.

## **Chapter 67 Section 5 Laws 2018**

SECTION 5. SALE.--The bonds authorized under the 2018 Capital Projects General Obligation Bond Act shall be sold by the state board of finance at such time and in such manner and amounts as the board may elect. The bonds may be sold at private sale or at public sale, in either case at not less than par plus accrued interest to the date of delivery. If sold at public sale, the state board of finance shall publish a notice of the time and place of sale in a newspaper of general circulation in the state and may also publish the notice in a recognized financial journal outside the state. The required publications shall be made once each week for two consecutive weeks prior to the date fixed for the sale, the last publication thereof to be at least five days prior to the date of the sale. The notice shall specify the amount, denomination, maturity and description of the bonds to be offered for sale and the place, date and hour at which the sealed bids shall be received. At the time and place specified in the notice, the state board of finance shall open the bids in public and shall award the bonds to the bidder or bidders offering the best price for the bonds. The state board of finance may reject any or all bids and readvertise and may waive any irregularity in a bid. All bids, except that of the state, shall be accompanied by a deposit of two percent of the principal amount of the bonds in a form acceptable to the state board of finance. The deposit of an



unsuccessful bidder shall be returned upon rejection of the bid. The state board of finance may also sell the bonds or any part of the bonds to the state treasurer or state investment officer. The state treasurer or state investment officer is authorized to purchase any of the bonds for investment. The bonds are legal investments for any person or board charged with the investment of any public funds and may be accepted as security for any deposit of public money.

## **Chapter 67 Section 6 Laws 2018**

SECTION 6. EXPENSES.--The expenses incurred by the state board of finance in or relating to the preparation and sale of the bonds shall be paid out of the proceeds from the sale of the bonds, and all rebate, penalty, interest and other obligations of the state relating to the bonds and bond proceeds under the Internal Revenue Code of 1986, as amended, shall be paid from earnings on bond proceeds or other money of the state, legally available for such payments.

## **Chapter 67 Section 7 Laws 2018**

SECTION 7. PROPERTY TAX LEVY.--To provide for the payment of the principal of and interest on the bonds issued and sold pursuant to the provisions of the 2018 Capital Projects General Obligation Bond Act, there shall be and there is hereby imposed and levied during each year in which any of the bonds are outstanding an ad valorem tax on all property in the state subject to property taxation for state purposes sufficient to pay the interest as it becomes due on the bonds, together with an amount sufficient to provide a sinking fund to pay the principal of the bonds as it becomes due, and, if permitted by law, ad valorem taxes may be collected to pay administrative costs incident to the collection of such taxes. The taxes shall be imposed, levied, assessed and collected at the times and in the manner that other property taxes for state purposes are imposed, levied, assessed and collected. It is the duty of all tax officials and authorities to cause these taxes to be imposed, levied, assessed and collected.

## **Chapter 67 Section 8 Laws 2018**

SECTION 8. TREASURER--DUTIES.--The state treasurer shall keep separate accounts of all money collected pursuant to the taxes imposed and levied pursuant to the provisions of the 2018 Capital Projects General Obligation Bond Act and shall use this money only for the purposes of paying the principal of and interest on the bonds as they become due and any expenses relating thereto.

## **Chapter 67 Section 9 Laws 2018**

SECTION 9. IRREPEALABLE CONTRACT--AUTHORITY FOR ISSUANCE.--An owner of bonds issued pursuant to the provisions of the 2018 Capital Projects General Obligation Bond Act may, either at law or in equity, by suit, action or mandamus, enforce and compel the performance of the duties required by that act of any officer or entity mentioned in that act. The provisions of that act constitute an irrevocable contract

with the owners of any of the bonds issued pursuant to that act for the faithful performance of which the full faith and credit of the state is pledged. Without reference to any other act of the legislature, the 2018 Capital Projects General Obligation Bond Act is full authority for the issuance and sale of the bonds authorized in that act, and such bonds shall have all the qualities of investment securities under the Uniform Commercial Code, shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale of the bonds and shall be incontestable in the hands of bona fide purchasers or holders thereof for value. All bonds issued under the provisions of that act, and the interest thereon, are exempt from taxation by the state and any subdivision or public body thereof.

## **Chapter 67 Section 10 Laws 2018**

SECTION 10. PROJECTS.--The proceeds from the sale of bonds issued under the provisions of the 2018 Capital Projects General Obligation Bond Act shall be distributed as follows for the purposes and in the amounts specified:

A. for senior citizen facility improvement, construction and equipment acquisition projects, to the aging and long-term services department:

(1) seventeen thousand six hundred dollars (\$17,600) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Barelás senior center in Albuquerque in Bernalillo county;

(2) seventeen thousand six hundred dollars (\$17,600) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Bear Canyon senior center in Albuquerque in Bernalillo county;

(3) twenty-one thousand one hundred dollars (\$21,100) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Highland senior center in Albuquerque in Bernalillo county;

(4) fourteen thousand one hundred dollars (\$14,100) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at Los Volcanes senior center in Albuquerque in Bernalillo county;

(5) fifty-four thousand two hundred dollars (\$54,200) to purchase and equip vehicles for Los Volcanes senior center in Albuquerque in Bernalillo county;

(6) nineteen thousand two hundred dollars (\$19,200) for improvements to the facility to address code compliance issues and for the purchase

and installation of equipment and building systems at the North Valley senior center in Albuquerque in Bernalillo county;

(7) fifty-four thousand two hundred dollars (\$54,200) to purchase and equip vehicles for the North Valley senior center in Albuquerque in Bernalillo county;

(8) seventeen thousand nine hundred dollars (\$17,900) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Palo Duro senior center in Albuquerque in Bernalillo county;

(9) twenty-eight thousand dollars (\$28,000) to purchase and equip vehicles for the Palo Duro senior fitness center in Albuquerque in Bernalillo county;

(10) twenty thousand one hundred dollars (\$20,100) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Paradise Hills community center in Albuquerque in Bernalillo county;

(11) one hundred thirty-eight thousand dollars (\$138,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Rio Bravo senior center in Albuquerque in Bernalillo county;

(12) two hundred thirty-five thousand dollars (\$235,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the South Valley multipurpose senior center in Albuquerque in Bernalillo county;

(13) one hundred twenty-three thousand dollars (\$123,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Whispering Pines senior center in Tijeras in Bernalillo county;

(14) twenty-four thousand dollars (\$24,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Glenwood senior center in Glenwood in Catron county;

(15) twenty-three thousand dollars (\$23,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Quemado senior center in Quemado in Catron county;

(16) eighty thousand dollars (\$80,000) to purchase and equip vehicles for the Reserve senior center in Reserve in Catron county;

(17) ninety thousand dollars (\$90,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Cimarron senior center in Cimarron in Colfax county;

(18) thirty thousand dollars (\$30,000) to purchase and equip vehicles for the Cimarron senior center in Cimarron in Colfax county;

(19) forty thousand dollars (\$40,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Raton senior center in Raton in Colfax county;

(20) one hundred fifty-seven thousand twenty-eight dollars (\$157,028) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at La Casa de Buena Salud senior center in Curry county;

(21) fifty-five thousand six hundred fifty dollars (\$55,650) to purchase and equip vehicles for La Casa de Buena Salud senior center in Curry county;

(22) one hundred thirty-eight thousand seven hundred dollars (\$138,700) to purchase and equip vehicles for the Anthony senior community center in Anthony in Dona Ana county;

(23) one hundred thousand dollars (\$100,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Anthony senior community center in Anthony in Dona Ana county;

(24) one hundred thousand dollars (\$100,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Betty McKnight multipurpose center in Chaparral in Dona Ana county;

(25) one hundred eleven thousand five hundred dollars (\$111,500) to purchase and equip vehicles for the Mesilla community center in Mesilla in Dona Ana county;

(26) fifty-eight thousand dollars (\$58,000) to purchase and equip vehicles for the Munson senior center in Las Cruces in Dona Ana county;

(27) one hundred twenty thousand dollars (\$120,000) for improvements to the facility to address code compliance issues and for the purchase

and installation of equipment and building systems at the Gila senior center in Gila in Grant county;

(28) twenty-five thousand dollars (\$25,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Silver City senior center in Silver City in Grant county;

(29) thirty-four thousand dollars (\$34,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at La Loma senior center in Guadalupe county;

(30) twenty-nine thousand dollars (\$29,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Puerto de Luna senior center in Santa Rosa in Guadalupe county;

(31) one hundred seventy-five thousand nine hundred dollars (\$175,900) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Ruidoso community center in Ruidoso in Lincoln county;

(32) fifty-five thousand dollars (\$55,000) to purchase and equip vehicles for the Betty Ehart senior center in Los Alamos in Los Alamos county;

(33) one hundred forty-one thousand seven hundred dollars (\$141,700) to purchase and equip vehicles for the Deming senior center in Deming in Luna county;

(34) eighty thousand dollars (\$80,000) to purchase and equip vehicles for the Baahaali chapter senior center in the Baahaali chapter of the Navajo Nation in McKinley county;

(35) four hundred thousand dollars (\$400,000) to plan, design and construct improvements to the parking lot, including lighting, at the Baca senior center in the Baca chapter of the Navajo Nation in McKinley county;

(36) seventy-six thousand dollars (\$76,000) to purchase and equip vehicles for the Chichiltah chapter senior center in the Chichiltah chapter of the Navajo Nation in McKinley county;

(37) fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Coyote Canyon chapter senior center in the Coyote Canyon chapter of the Navajo Nation in McKinley county;

(38) eighty thousand dollars (\$80,000) to purchase and equip vehicles for the Crownpoint chapter senior center in the Crownpoint chapter of the Navajo Nation in McKinley county;

(39) one hundred eighty thousand dollars (\$180,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Iyanbito chapter senior center in the Iyanbito chapter of the Navajo Nation in McKinley county;

(40) eighty thousand dollars (\$80,000) to purchase and equip vehicles for the Iyanbito chapter senior center in the Iyanbito chapter of the Navajo Nation in McKinley county;

(41) fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Rock Springs chapter senior center in the Rock Springs chapter of the Navajo Nation in McKinley county;

(42) seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the Thoreau chapter senior center in the Thoreau chapter of the Navajo Nation in McKinley county;

(43) forty-five thousand dollars (\$45,000) to purchase and equip vehicles for the Tohatchi chapter senior center in the Tohatchi chapter of the Navajo Nation in McKinley county;

(44) nine hundred fifty-one thousand seven hundred fifty dollars (\$951,750) to plan, design, construct, renovate, equip and furnish an addition to the senior center in the Twin Lakes chapter of the Navajo Nation in McKinley county;

(45) fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Twin Lakes chapter senior center in the Twin Lakes chapter of the Navajo Nation in McKinley county;

(46) one hundred fifty thousand dollars (\$150,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Logan senior center in Logan in Quay county;

(47) two hundred seven thousand eight hundred dollars (\$207,800) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Tucumcari senior center in Tucumcari in Quay county;

(48) one hundred fifty thousand dollars (\$150,000) for improvements to the facility to address code compliance issues and for the purchase

and installation of equipment and building systems at the Beatrice Martinez senior center in Espanola in Rio Arriba county;

(49) one hundred one thousand dollars (\$101,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Espanola senior center in Espanola in Rio Arriba county;

(50) sixty-seven thousand nine hundred dollars (\$67,900) to purchase and equip vehicles for the Ohkay Owingeh senior center at Ohkay Owingeh in Rio Arriba county;

(51) one hundred thousand one hundred fifty dollars (\$100,150) to purchase and equip vehicles for the Pueblo of Santa Clara adult daycare center at the Pueblo of Santa Clara in Rio Arriba county;

(52) fifty-four thousand seven hundred dollars (\$54,700) to purchase and install meals equipment at the Pueblo of Santa Clara senior center in the Pueblo of Santa Clara in Rio Arriba county;

(53) fifty-five thousand six hundred fifty dollars (\$55,650) to purchase and equip vehicles for La Casa de Buena Salud Los Abuelitos senior center in Portales in Roosevelt county;

(54) one hundred fifteen thousand dollars (\$115,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Blanco senior center in Blanco in San Juan county;

(55) twenty-one thousand one hundred dollars (\$21,100) to purchase and install meals equipment at the Bloomfield senior center in Bloomfield in San Juan county;

(56) nine hundred fifty-five thousand dollars (\$955,000) to plan, design, construct, equip and furnish the Gadii'ahi chapter senior center in the Gadii'ahi chapter of the Navajo Nation in San Juan county;

(57) forty-five thousand dollars (\$45,000) to purchase and equip vehicles for the Gadii'ahi chapter senior center in the Gadii'ahi chapter of the Navajo Nation in San Juan county;

(58) forty-eight thousand six hundred dollars (\$48,600) to purchase and equip vehicles for the Nageezi chapter senior center in the Nageezi chapter of the Navajo Nation in San Juan county;

(59) fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Newcomb chapter senior center in the Newcomb chapter of the Navajo Nation in San Juan county;

(60) one hundred fifty-eight thousand two hundred dollars (\$158,200) to purchase and equip vehicles, including meal delivery vehicles, for the Bernalillo senior center in Bernalillo in Sandoval county;

(61) ninety-five thousand dollars (\$95,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Corrales senior center in Corrales in Sandoval county;

(62) seventy-six thousand seven hundred dollars (\$76,700) to purchase and equip vehicles for the Corrales senior center in Corrales in Sandoval county;

(63) forty-two thousand eight hundred fifty dollars (\$42,850) to purchase and install equipment at the Meadowlark senior center in Rio Rancho in Sandoval county;

(64) twenty thousand nine hundred dollars (\$20,900) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Meadowlark senior center in Rio Rancho in Sandoval county;

(65) two hundred thousand dollars (\$200,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the San Felipe senior center in the Pueblo of San Felipe in Sandoval county;

(66) one million three hundred thousand dollars (\$1,300,000) to plan, design, construct, equip and furnish, including demolition, the Abedon Lopez senior center in Santa Cruz in Santa Fe county;

(67) two hundred ten thousand dollars (\$210,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Sierra joint office on aging Ken James senior center in Truth or Consequences in Sierra county;

(68) ninety thousand dollars (\$90,000) to purchase and equip vehicles for the Sierra joint office on aging Ken James senior center in Truth or Consequences in Sierra county;

(69) seventy-three thousand seven hundred dollars (\$73,700) for improvements to the facility to address code compliance issues and for the purchase



and installation of equipment and building systems at the Socorro senior center in Socorro in Socorro county;

(70) sixteen thousand two hundred dollars (\$16,200) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Veguita senior center in Veguita in Socorro county;

(71) one hundred ninety-five thousand dollars (\$195,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Amalia senior center in Amalia in Taos county;

(72) nine hundred ten thousand dollars (\$910,000) to plan, design, construct, equip and furnish the Pueblo of Picuris senior center in the Pueblo of Picuris in Taos county; and

(73) six hundred eighty-eight thousand two hundred dollars (\$688,200) to plan, design, construct, equip and furnish the Questa senior center in Taos county;

B. for library acquisitions at public libraries, public school libraries, academic libraries and tribal libraries statewide:

(1) to the cultural affairs department:

(a) four million dollars (\$4,000,000) for equipment, library furniture, fixtures and supplemental library resource acquisitions, including print, non-print and electronic resources, collaborative library resources and information technology projects, and for the purchase and installation of broadband internet equipment and infrastructure at non-tribal public libraries statewide; and

(b) seven hundred fifty thousand dollars (\$750,000) for equipment, library furniture, fixtures and supplemental library resource acquisitions, including print, non-print and electronic resources, collaborative library resources and information technology projects, and for the purchase and installation of broadband internet equipment and infrastructure at tribal libraries statewide;

(2) to the higher education department, four million dollars (\$4,000,000) for supplemental library resource acquisitions, including books, equipment, electronic resources and collaborative library resources and information technology projects, for academic libraries statewide; and

(3) to the public education department, four million dollars (\$4,000,000) for equipment and supplemental library resource acquisitions, including print, non-print and electronic resources, at public school libraries statewide;

C. for school bus acquisitions, to the public education department, six million dollars (\$6,000,000) to purchase and equip school buses statewide, including air conditioning, for buses owned by a school district or buses provided by a school district service contractor if the school district determines that air conditioning as standard equipment is necessary; and

D. for capital improvements at institutions of higher education, special schools and tribal schools statewide:

(1) to the board of regents of eastern New Mexico university:

(a) three million dollars (\$3,000,000) to plan, design, construct, furnish and equip renovations to the automotive and welding building at the Roswell branch campus of eastern New Mexico university in Chaves county;

(b) five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip campuswide infrastructure improvements at the Ruidoso branch campus of eastern New Mexico university in Lincoln county; and

(c) eight million dollars (\$8,000,000) to plan, design, construct, furnish and equip phase 1 renovations at Roosevelt science hall at eastern New Mexico university in Portales in Roosevelt county;

(2) to the higher education department:

(a) seven million five hundred thousand dollars (\$7,500,000) to plan, design, construct, furnish and equip renovations at Ken Chappy hall art facility and for campuswide infrastructure upgrades and repairs at the main campus of central New Mexico community college in Albuquerque in Bernalillo county;

(b) six hundred fifty thousand dollars (\$650,000) to plan, design, construct, purchase, install, furnish and equip campuswide infrastructure improvements, including electrical site improvements and central plant upgrades, at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;

(c) one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, furnish and equip roof and parking lot replacement and repairs campuswide at Clovis community college in Clovis in Curry county;

(d) two million five hundred thousand dollars (\$2,500,000) to plan, design, construct, furnish and equip campuswide infrastructure improvements at New Mexico junior college in Hobbs in Lea county;

(e) two million two hundred fifty thousand dollars (\$2,250,000) to plan, design, construct, furnish and equip renovations at McLean hall

and for campuswide infrastructure improvements at New Mexico junior college in Hobbs in Lea county;

(f) three million seven hundred thousand dollars (\$3,700,000) to plan, design, construct, furnish and equip a new academic building, including site improvements and sidewalks, at the Crownpoint campus of Navajo technical university in McKinley county;

(g) eight hundred thousand dollars (\$800,000) to plan, design, construct, furnish and equip renovations, including demolition and abatement of hazardous materials, at building A at Mesalands community college in Tucumcari in Quay county;

(h) five million dollars (\$5,000,000) to plan, design and construct phase 1 of a math and science building, including site preparations, at Dine college in the Shiprock chapter of the Navajo Nation in San Juan county;

(i) five hundred twenty thousand dollars (\$520,000) to plan, design, construct, furnish and equip campuswide infrastructure improvements, including fire tower demolition, site reclamation and roof replacements, at San Juan college in Farmington in San Juan county;

~~[(j) eight hundred thousand dollars (\$800,000) to plan, design, construct, furnish and equip campuswide infrastructure improvements, including roadways, parking lots, building entrances and code compliance, at Luna community college in Las Vegas in San Miguel county;]~~ *LINE-ITEM VETO*

(k) eight hundred thousand dollars (\$800,000) to plan, design, construct, furnish and equip heating, ventilation and air conditioning system upgrades in the academic building and for code compliance improvements at the institute of American Indian arts in Santa Fe county;

(l) two million dollars (\$2,000,000) to plan, design, construct, purchase, install, furnish and equip campuswide infrastructure improvements at Santa Fe community college in Santa Fe in Santa Fe county; and

(m) three million dollars (\$3,000,000) to plan, design, construct, furnish and equip a trades and advanced technology center and for campuswide infrastructure improvements at Santa Fe community college in Santa Fe in Santa Fe county;

(3) to the Indian affairs department, nine hundred thousand dollars (\$900,000) to plan, design and construct an access lane and other road improvements, including ingress and egress, curbs and gutters and storm drainage, at the Santa Fe Indian school in Santa Fe in Santa Fe county;

(4) to the board of regents of New Mexico highlands university, four million dollars (\$4,000,000) to plan, design, construct, renovate, furnish and equip campuswide infrastructure upgrades, including demolition, at New Mexico highlands university in Las Vegas in San Miguel county;

(5) to the board of regents of the New Mexico institute of mining and technology, seven million one hundred thousand dollars (\$7,100,000) to plan, design, construct, purchase, install, furnish and equip renovations at Brown hall and for campuswide infrastructure improvements, including parking lots and safety lighting upgrades, at the New Mexico institute of mining and technology in Socorro in Socorro county;

(6) to the board of regents of the New Mexico military institute:

(a) three million seven hundred fifty thousand dollars (\$3,750,000) to plan, design, construct, furnish and equip renovations of barracks sink rooms, including demolition and abatement of hazardous materials, at the New Mexico military institute in Roswell in Chaves county; and

(b) four million five hundred thousand dollars (\$4,500,000) to plan, design, construct, furnish and equip renovations, including code compliance improvements and demolition, at John Ross Thomas hall and Vertrees, Moore and Vlahopoulos hall at the New Mexico military institute in Roswell in Chaves county;

(7) to the board of regents of the New Mexico school for the deaf, one million eight hundred thousand dollars (\$1,800,000) to plan, design, renovate, purchase, install, furnish and equip the Lars M. Larson Roadrunner activity center and residential complex, including site and code compliance improvements, at the New Mexico school for the deaf in Santa Fe in Santa Fe county;

(8) to the board of regents of New Mexico state university:

(a) one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, furnish and equip improvements at Martinez hall, including roof and code compliance improvements, at the Grants branch campus of New Mexico state university in Cibola county;

(b) twenty-five million dollars (\$25,000,000) to plan, design, construct, furnish and equip agricultural modernization and education facilities, including site improvements and demolition, for the college of agricultural, consumer and environmental sciences at New Mexico state university in Las Cruces in Dona Ana county;

(c) one million seven hundred thousand dollars (\$1,700,000) to plan, design, construct, furnish and equip buildings and for infrastructure improvements campuswide, including roof repair and replacement, at the Dona Ana

branch community college campuses of New Mexico state university in Dona Ana county;

(d) one million dollars (\$1,000,000) to plan, design, construct, furnish and equip infrastructure, drainage and site improvements campuswide, including roofs and code compliance, at the Carlsbad branch campus of New Mexico state university in Eddy county;

(e) six hundred thousand dollars (\$600,000) to plan, design, construct, renovate and equip the learning assistance center at the Carlsbad branch campus of New Mexico state university in Eddy county; and

(f) one million four hundred thousand dollars (\$1,400,000) to remove and replace the roof at the Tays center and to plan, design, construct and improve infrastructure campuswide, including site improvements, at the Alamogordo branch campus of New Mexico state university in Otero county;

~~[(9) to the board of regents of northern New Mexico state school, one million two hundred seventy five thousand dollars (\$1,275,000) to plan, design, construct, purchase, install, furnish and equip phase 3 renovations, including site and code compliance improvements, at the Joseph M. Montoya building at the Espanola campus of northern New Mexico state school in Rio Arriba county;] LINE-ITEM VETO~~

(10) to the board of regents of the university of New Mexico:

(a) sixteen million dollars (\$16,000,000) to plan, design, construct, furnish and equip phase 2 renovations at Clark hall chemistry building at the university of New Mexico in Albuquerque in Bernalillo county;

(b) six million eight hundred thousand dollars (\$6,800,000) to plan, design, construct, furnish and equip renovations at existing reserve officer training corps facilities at the university of New Mexico in Albuquerque in Bernalillo county;

~~[(c) seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, furnish and equip campuswide infrastructure improvements, including code compliance and lighting, at the Los Alamos branch campus of the university of New Mexico in Los Alamos county;] LINE-ITEM VETO~~

~~[(d) five million dollars (\$5,000,000) to plan, design, construct, furnish and equip the center for career and technical education, including site improvements, at the Gallup branch campus of the university of New Mexico in McKinley county; and] LINE-ITEM VETO~~

(e) four million three hundred thousand dollars (\$4,300,000) to plan, design, construct, furnish and equip a new college pathways to careers center

at the Klauer campus of the Taos branch campus of the university of New Mexico in Taos county; and

(11) to the board of regents of western New Mexico university, six million dollars (\$6,000,000) to plan, design, construct, furnish and equip the Harlan hall science building, including demolition, at western New Mexico university in Silver City in Grant county and for infrastructure improvements at western New Mexico university campuses in Grant county and in Luna county.

## **Chapter 67 Section 11 Laws 2018**

### SECTION 11. ELECTION.--

A. Bonds issued pursuant to the 2018 Capital Projects General Obligation Bond Act shall be submitted to the registered voters of the state at the general election to be held in November 2018, and, if they receive a majority of all the votes cast thereon at such election, shall take effect upon certification of the state canvassing board announcing the results of the election. No bonds shall be issued or sold under that act until the registered voters of this state have voted upon and approved the bonds and property tax as provided in this section. Any bonds issued under that act shall be issued within thirty months from the date of such election.

B. The ballots used at the 2018 general election shall contain substantially the following language:

(1) "The 2018 Capital Projects General Obligation Bond Act authorizes the issuance and sale of senior citizen facility improvement, construction and equipment acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed ten million seven hundred seventy thousand dollars (\$10,770,000) to make capital expenditures for certain senior citizen facility improvement, construction and equipment acquisition projects and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For \_\_\_\_\_ Against \_\_\_\_\_";

(2) "The 2018 Capital Projects General Obligation Bond Act authorizes the issuance and sale of library acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed twelve million eight hundred seventy-six thousand dollars (\$12,876,000) to make capital expenditures for academic, public school, tribal and public library resource acquisitions and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For \_\_\_\_\_ Against \_\_\_\_\_";

(3) "The 2018 Capital Projects General Obligation Bond Act authorizes the issuance and sale of bonds for the purchase of school buses. Shall the state be authorized to issue general obligation bonds in an amount not to exceed six million one hundred thirty-seven thousand dollars (\$6,137,000) to make capital expenditures for the purchase of school buses and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For \_\_\_\_\_ Against \_\_\_\_\_"; and

(4) "The 2018 Capital Projects General Obligation Bond Act authorizes the issuance and sale of higher education, special schools and tribal schools capital improvement and acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed one hundred thirty-six million two hundred thirty thousand dollars (\$136,230,000) to make capital expenditures for certain higher education, special schools and tribal schools capital improvements and acquisitions and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For \_\_\_\_\_ Against \_\_\_\_\_".

C. Each question set forth in this section includes a specific work or object to be financed by the bonds. If any such question is not approved by a majority vote of the electorate at the state's 2018 general election, the issuance of bonds for the work or object specified by the question shall be excluded from and shall not be part of the 2018 Capital Projects General Obligation Bond Act. The failure of a question to be approved by the electorate at the 2018 general election shall not affect those questions that are approved at the election.

D. The secretary of state shall include the submission of the capital projects general obligation bonds to the people at the 2018 general election, and it shall be included in the general election proclamation of each of the county clerks. The secretary of state shall cause the 2018 Capital Projects General Obligation Bond Act to be published in full in at least one newspaper in each county of the state if one be published therein, once each week, for four successive weeks next preceding the general election as required by the constitution of New Mexico.

## **Chapter 67 Section 12 Laws 2018**

SECTION 12. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in the 2018 Capital Projects General Obligation Bond Act include money for the art in public places fund.

## **Chapter 67 Section 13 Laws 2018**

### SECTION 13. PROJECT SCOPE--EXPENDITURES--REVERSION.--

A. If an appropriation for a project authorized in the 2018 Capital Projects General Obligation Bond Act is not sufficient to complete all the purposes specified, the appropriation may be expended for any portion of the purposes specified in the appropriation. Expenditures shall not be made for purposes other than those specified in the appropriation.

B. The state agencies and state institutions to which money has been appropriated in the 2018 Capital Projects General Obligation Bond Act shall be responsible for monitoring the projects funded in that act to ensure compliance with the constitution and laws of New Mexico and shall cause to be reverted any unexpended or unencumbered balance remaining at the earlier of the third full fiscal year after issuance of the bonds or the termination or completion of the specific project. Reverted funds shall be deposited in the debt service fund established by the state treasurer for the purpose of paying the principal of and interest on the state's general obligation bonds.

## **Chapter 67 Section 14 Laws 2018**

SECTION 14. SEVERABILITY.--If any part or application of the 2018 Capital Projects General Obligation Bond Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

## **Chapter 67 Section 15 Laws 2018**

SECTION 15. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SFC/Senate Bill 94, w/ec, partial veto

Approved March 7, 2018

# **LAWS 2018, CHAPTER 68**

AN ACT

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING OR CHANGING PURPOSES, EXTENDING CERTIFICATION PERIODS, EXTENDING EXPENDITURE PERIODS, CHANGING AGENCIES AND ESTABLISHING CONDITIONS FOR THE REVERSION



OR TRANSFER OF UNEXPENDED BALANCES OF APPROPRIATIONS MADE BY THE LEGISLATURE IN PRIOR YEARS; DECLARING AN EMERGENCY.

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

## **Chapter 68 Section 1 Laws 2018**

### **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 68 Section 2 Laws 2018**

### **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 68 Section 3 Laws 2018**

SECTION 3. PASEO DEL VOLCAN LOOP BYPASS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 57 of Section 25 of Chapter 66 of Laws 2014 to acquire rights of way for and to plan, design and construct paseo del Volcan loop bypass road from Unser boulevard to interstate 40 in Bernalillo and Sandoval counties is extended through fiscal year 2020.

## **Chapter 68 Section 4 Laws 2018**

SECTION 4. ATRISCO LITTLE LEAGUE PARK IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 2 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct and equip improvements to parking areas, lighting, fields, batting cages and landscaping at the Atrisco little league park in Bernalillo county is extended through fiscal year 2020.

## **Chapter 68 Section 5 Laws 2018**

SECTION 5. BERNALILLO COUNTY CARLITO SPRINGS IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 5 of Section 22 of Chapter 66 of Laws 2014

to plan, design, construct, equip and furnish phase 2 improvements at Carlito Springs in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 6 Laws 2018**

SECTION 6. BERNALILLO COUNTY CARLITO SPRINGS OPEN SPACE WATER AND WASTEWATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 2 of Section 16 of Chapter 66 of Laws 2014 to plan, design, construct, equip and furnish water and wastewater system improvements at the Carlito Springs open space in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 7 Laws 2018**

SECTION 7. BERNALILLO COUNTY SOUTH VALLEY GYMNASIUM AND YOUTH BOXING FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 15 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to purchase property for and to plan, design, construct, equip and furnish a gymnasium and youth boxing facility in the South Valley in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 8 Laws 2018**

SECTION 8. BERNALILLO COUNTY SOUTH VALLEY QUIET RAILROAD CROSSINGS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 59 of Section 25 of Chapter 66 of Laws 2014 to plan, design, construct and equip quiet railroad crossings in the south valley of Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 9 Laws 2018**

SECTION 9. BERNALILLO COUNTY TRANSITIONAL YOUTH HOME IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subsection 16 of Section 22 of Chapter 66 of Laws 2014 and reauthorized in Laws 2016, Chapter 83, Section 6 to purchase vehicles and equipment and to plan, design, construct and equip improvements to a house to be used as a transitional home for lesbian and gay homeless youth in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 10 Laws 2018**

SECTION 10. PARADISE HILLS COMMUNITY CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 11 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct improvements, additions and landscaping at the Paradise

Hills community center and annex and adjacent parks and recreation facilities in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 11 Laws 2018**

SECTION 11. ROUTE 66 VISITORS CENTER ON WEST CENTRAL AVENUE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 17 of Section 22 of Chapter 66 of Laws 2014 to purchase, plan, construct, furnish and equip a Route 66 visitors center on west Central avenue in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 12 Laws 2018**

SECTION 12. SOUTH VALLEY ECONOMIC DEVELOPMENT CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 18 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct, equip and furnish improvements and additions to the South Valley economic development center in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 13 Laws 2018**

SECTION 13. SUNSET ROAD IMPROVEMENTS BERNALILLO COUNTY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 3 of Section 25 of Chapter 66 of Laws 2014 to plan, design and construct improvements to Sunset road from the post office south of Bridge boulevard to Gatewood avenue in Los Ranchos de Atrisco community of Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 14 Laws 2018**

SECTION 14. ALBUQUERQUE ATRISCO ADULT DAYCARE AND RESPITE FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subparagraph (a) of Paragraph (8) of Subsection A of Section 18 of Chapter 105 of Laws 2010 and reauthorized to the aging and long-term services department in Laws 2014, Chapter 64, Section 9 and for which the time of expenditure was extended in Laws 2016, Chapter 83, Section 9 to purchase land and a building and to plan, design, renovate, construct, furnish and equip an adult daycare and respite facility in the Atrisco community in Albuquerque in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 15 Laws 2018**

SECTION 15. ALBUQUERQUE BIOPARK JAGUAR EXHIBIT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division

project in Subsection 25 of Section 22 of Chapter 66 of Laws 2014 to design and construct a jaguar exhibit at the biopark in Albuquerque in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 16 Laws 2018**

SECTION 16. ALBUQUERQUE COMMUNITY FOOD PANTRY TRUCKS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 46 of Section 22 of Chapter 81 of Laws 2016 to purchase and equip a refrigerated truck and a box truck for a community food pantry in Albuquerque in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 17 Laws 2018**

~~[SECTION 17. ALBUQUERQUE DEAF CULTURE MULTIPURPOSE CENTER RENOVATIONS, FURNITURE AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project originally authorized in Subsection 26 of Section 24 of Chapter 92 of Laws 2008 and reauthorized to the commission for deaf and hard-of-hearing persons in Laws 2012, Chapter 63, Section 5 and reauthorized to extend the expenditure period in Laws 2014, Chapter 64, Section 12 and further reauthorized to the local government division in Laws 2016, Chapter 83, Section 19 to plan, design, improve and construct renovations and to purchase furniture and equipment for a deaf culture multipurpose center in Albuquerque in Bernalillo county and to extend the expenditure period is extended through fiscal year 2020.]~~ *LINE-ITEM VETO*

### **Chapter 68 Section 18 Laws 2018**

SECTION 18. ALBUQUERQUE DISABILITIES DEVELOPMENT CENTER EQUIPMENT, VEHICLES AND INFORMATION TECHNOLOGY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 47 of Section 22 of Chapter 81 of Laws 2016 to purchase equipment and vehicles and to purchase and install information technology, including related equipment, furniture and infrastructure, for a disabilities development center in Albuquerque in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 19 Laws 2018**

SECTION 19. ALBUQUERQUE EXPLORA SCIENCE CENTER AND CHILDREN'S MUSEUM EXPANSION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 35 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct, equip and furnish phase 2b of a building expansion and to design, construct, purchase and install exhibits, furniture, equipment and outreach vehicles for the Explora science center and children's museum in Albuquerque in Bernalillo county is extended through fiscal year 2020.

## **Chapter 68 Section 20 Laws 2018**

SECTION 20. ALBUQUERQUE FOOD BANK WAREHOUSE EQUIPMENT AND INFRASTRUCTURE IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The local government division project originally authorized in Subsection 23 of Section 22 of Chapter 81 of Laws 2016 to purchase food bank warehouse equipment and related equipment in Albuquerque in Bernalillo county and reauthorized in Laws 2017, Chapter 133, Section 17 to include the design, purchase, assembly and equipping of expanded freezer and cooler space, including compressors, wall and ceiling panels, and planning, design and construction of infrastructure improvements, including lighting, electrical, roof and building modifications and a fire suppression system, may include construction, purchase and installation of forklift doors, entry points and protective bollards. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 21 Laws 2018**

SECTION 21. ALBUQUERQUE NORTH DOMINGO BACA MULTIGENERATIONAL CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the aging and long-term services department project in Subsection 2 of Section 4 of Chapter 66 of Laws 2014 to plan, design, renovate and improve the North Domingo Baca multigenerational center in Albuquerque in Bernalillo county is extended through fiscal year 2020.

## **Chapter 68 Section 22 Laws 2018**

SECTION 22. ALBUQUERQUE PARKS SECURITY CAMERAS PURCHASE AND INSTALLATION--CHANGE TO PURCHASE SECURITY CAMERAS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 34 of Section 22 of Chapter 81 of Laws 2016 to purchase and install security cameras for parks in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase security cameras for parks in Albuquerque. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 23 Laws 2018**

~~[SECTION 23. ALBUQUERQUE SOUTH VALLEY PUBLIC LIBRARY EXTERIOR IMPROVEMENTS--CHANGE TO INFORMATION TECHNOLOGY AND RELATED EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 17 of Section 28 of Chapter 3 of Laws 2015 (S.S.) for improvements to the exterior, including replacing stucco, at the South Valley public library in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to make landscaping improvements and to purchase and install information technology, including~~

~~related equipment, furniture and infrastructure, at that library. The time of expenditure is extended through fiscal year 2020.] LINE-ITEM VETO~~

## **Chapter 68 Section 24 Laws 2018**

SECTION 24. ALBUQUERQUE WEST CENTRAL AVENUE IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The local government division project in Subsection 64 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan, design, purchase, install and construct improvements to west Central avenue for a community development project in the West Central metropolitan redevelopment district in Albuquerque in Bernalillo county may include acquisition and purchase of land. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 25 Laws 2018**

SECTION 25. ALBUQUERQUE WESTGATE COMMUNITY CENTER CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for seventy-four thousand two hundred fifty dollars (\$74,250) of the unexpended balance for the local government division project in Subsection 62 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct and equip, including the purchase and installation of information technology and related infrastructure for, a community center in the Westgate community in Albuquerque in Bernalillo county is extended through fiscal year 2020.

## **Chapter 68 Section 26 Laws 2018**

SECTION 26. ALBUQUERQUE WESTGATE LIBRARY IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 63 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct and equip improvements, including the purchase and installation of information technology and related infrastructure, for the public library in the Westgate community of Albuquerque in Bernalillo county is extended through fiscal year 2020.

## **Chapter 68 Section 27 Laws 2018**

~~[SECTION 27. ALBUQUERQUE WESTGATE LITTLE LEAGUE PARK INFRASTRUCTURE AND SAFETY IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 64 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct infrastructure and safety improvements to Westgate little league park in Albuquerque in Bernalillo county is extended through fiscal year 2020.~~

## **Chapter 68 Section 28 Laws 2018**

~~SECTION 28. ALBUQUERQUE WHEELS MUSEUM IMPROVEMENTS--  
EXTEND CERTIFICATION PERIOD--SEVERANCE TAX BONDS.--The period of time  
for the local government division to certify to the state board of finance when the money  
from the proceeds of severance tax bonds appropriated is needed for the local  
government division project in Subsection 56 of Section 22 of Chapter 81 of Laws 2016  
to plan, design and construct building improvements to the Wheels museum in  
Albuquerque in Bernalillo county is extended through fiscal year 2019.] LINE-ITEM  
VETO~~

## **Chapter 68 Section 29 Laws 2018**

SECTION 29. ARENAL DRAIN BLUFF PARK CONSTRUCTION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The local government division project originally authorized in Subsection 1 of Section 31 of Chapter 226 of Laws 2013 and reauthorized in Laws 2017, Chapter 133, Section 15 to purchase, plan, design and construct a park and outdoor facilities along the bluff area of the Arenal drain from west Central avenue to Bridge street, both within and outside the city limits of Albuquerque in Bernalillo county, may include the purchase of land and may include the Crestview bluff area of the Arenal drain. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 30 Laws 2018**

SECTION 30. ATRISCO LITTLE LEAGUE PARK INFRASTRUCTURE AND SAFETY IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 23 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct infrastructure and safety improvements to the Atrisco little league park in Albuquerque in Bernalillo county is extended through fiscal year 2020.

## **Chapter 68 Section 31 Laws 2018**

SECTION 31. BERNALILLO COUNTY FOOD DISTRIBUTION CENTER FURNISHINGS AND EQUIPMENT--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The local government division project originally authorized in Subsection 72 of Section 28 of Chapter 3 of Laws 2015 (S.S.) and reauthorized in Laws 2016, Chapter 83, Section 16 to furnish and equip a direct food distribution center in Albuquerque in Bernalillo county may include planning, designing, purchase, replacement and installation of shelving for the center. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 32 Laws 2018**

SECTION 32. ERNIE PYLE LIBRARY RENOVATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 34 of Section 22 of Chapter 66 of Laws 2014 for renovation and



improvements at the Ernie Pyle library building in Albuquerque in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 33 Laws 2018**

SECTION 33. NATIONAL HISPANIC CULTURAL CENTER INFORMATION AND WELCOME CENTER--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the cultural affairs department project in Subsection 3 of Section 7 of Chapter 66 of Laws 2014 to plan, design, construct, equip and furnish an information and welcome center at the entrance of the national Hispanic cultural center in Albuquerque in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 34 Laws 2018**

SECTION 34. TRUMBULL AVENUE AND SAN PEDRO STREETLIGHTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 17 of Section 25 of Chapter 66 of Laws 2014 to purchase and install street lights along Trumbull avenue SE and San Pedro drive SE in Albuquerque in Bernalillo county is extended through fiscal year 2020.

### **Chapter 68 Section 35 Laws 2018**

SECTION 35. UNIVERSITY OF NEW MEXICO STADIUM IMPROVEMENTS AND SOUND SYSTEM--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project originally authorized in Subsection 166 of Section 13 of Chapter 66 of Laws 2014 to purchase and install information technology at Southwest secondary learning center in Albuquerque in Bernalillo county and reauthorized to the board of regents of the university of New Mexico in Laws 2016, Chapter 83, Section 27 for improvements, including a sound system, at University stadium at the university of New Mexico in Albuquerque in Bernalillo county is extended through fiscal year 2019.

### **Chapter 68 Section 36 Laws 2018**

SECTION 36. ALBUQUERQUE WESTGATE COMMUNITY CENTER CONSTRUCTION--CHANGE TO ROBERT F. KENNEDY CHARTER SCHOOL LEARNING LAB EQUIPMENT--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--Forty-nine thousand five hundred dollars (\$49,500) of the unexpended balance of the appropriation to the local government division in Subsection 62 of Section 22 of Chapter 66 of Laws 2014 for a community center in the Westgate community in Albuquerque in Bernalillo county shall not be expended for the original purpose but is appropriated to the public education department to purchase and install equipment for a virtual learning laboratory at Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 37 Laws 2018**

SECTION 37. CATRON COUNTY EMERGENCY MANAGEMENT FACILITY AND COUNTY FAIR BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 76 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct an emergency management facility and county fair building in Reserve in Catron county is extended through fiscal year 2020.

## **Chapter 68 Section 38 Laws 2018**

SECTION 38. DEXTER WATER SUPPLY LINE IMPROVEMENTS--CHANGE TO WATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 5 of Section 18 of Chapter 81 of Laws 2016 to plan, design, construct and improve the water supply line in Dexter in Chaves county shall not be expended for the original purpose but is changed to plan, design and construct water system improvements, including wells, water supply lines and water treatment, in Dexter.

## **Chapter 68 Section 39 Laws 2018**

SECTION 39. HAGERMAN BUILDING DEMOLITION AND DISPOSAL--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 79 of Section 22 of Chapter 66 of Laws 2014 for building demolition and disposal in Hagerman in Chaves county is extended through fiscal year 2020.

## **Chapter 68 Section 40 Laws 2018**

SECTION 40. VIETNAM VETERANS MEMORIAL STATE PARK--CHANGE TO VIETNAM VETERANS MEMORIAL--CHANGE AGENCY--SEVERANCE TAX BONDS.-The unexpended balance of the appropriation to the state parks division of the energy, minerals and natural resources department in Subsection 1 of Section 16 of Chapter 81 of Laws 2016 to plan, design, renovate and construct improvements to the Vietnam veterans memorial state park in Colfax county shall not be expended by the state parks division but is appropriated to the capital program fund for the Vietnam veterans memorial in Colfax county.

## **Chapter 68 Section 41 Laws 2018**

SECTION 41. MAXWELL WELL--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The department of environment project authorized in Subsection 16 of Section 16 of Chapter 66 of Laws 2014 to plan, design and construct a water well for Maxwell in Colfax county may include planning, design, construction and

equipping of water system improvements in Maxwell. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 42 Laws 2018**

SECTION 42. SPRINGER WATER SYSTEM IMPROVEMENTS--CHANGE TO WASTEWATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment originally authorized in Subsection 18 of Section 16 of Chapter 66 of Laws 2014 and reauthorized in Laws 2015, Chapter 147, Section 18 for water system improvements, including backwash water settling basins, at the water treatment plant in Springer in Colfax county shall not be expended for the original or reauthorized purpose but is changed to plan, design and construct wastewater system improvements, including monitoring wells, in Springer. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 43 Laws 2018**

SECTION 43. CLOVIS VETERANS' PARK NAVAL MEMORIAL--CHANGE TO LYCEUM THEATER RENOVATION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 77 of Section 22 of Chapter 81 of Laws 2016 to plan, design and construct a naval memorial in the veterans' park in Clovis in Curry county shall not be expended for the original purpose but is changed to plan, design, construct, renovate and equip the Lyceum theater in Clovis.

### **Chapter 68 Section 44 Laws 2018**

SECTION 44. CLOVIS MAINSTREET PROGRAM BUILDINGS RENOVATION--CHANGE TO LYCEUM THEATER RENOVATION--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 88 of Section 22 of Chapter 66 of Laws 2014 to renovate the mainstreet program's Levine building and Lyceum theater in Clovis in Curry county shall not be expended for the original purpose but is changed to plan, design, construct, renovate and equip the Lyceum theater. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 45 Laws 2018**

~~[SECTION 45. CLOVIS POTTER PARK IMPROVEMENTS--CHANGE TO CLOVIS LYCEUM THEATER CONSTRUCTION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 101 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to construct and equip improvements for Potter park in Clovis in Curry county shall not be expended for the original purpose but is changed to plan, design, construct, renovate and equip the Lyceum theater in Clovis.]~~ *LINE-ITEM VETO*

## **Chapter 68 Section 46 Laws 2018**

SECTION 46. BAYLOR CANYON AND DRIPPING SPRINGS ROADS IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 25 of Section 25 of Chapter 66 of Laws 2014 to plan, design and construct road and drainage improvements to Baylor Canyon and Dripping Springs roads in Dona Ana county is extended through fiscal year 2020.

## **Chapter 68 Section 47 Laws 2018**

SECTION 47. DONA ANA COUNTY SANTA TERESA AUTOMATED WEATHER OBSERVATION SYSTEM--CHANGE TO DESIGN SOLEDAD CANYON ROAD IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 107 of Section 28 of Chapter 3 of Laws 2015 (S.S.) for an automated weather observation system in Santa Teresa in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of transportation to design road and drainage improvements to Soledad Canyon road in the Talavera area of Las Cruces in Dona Ana county. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 48 Laws 2018**

SECTION 48. DONA ANA COUNTY SHERIFF'S DEPARTMENT EQUIPMENT--CHANGE TO DESIGN SOLEDAD CANYON ROAD IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 108 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to purchase and install tactical operations and training equipment for the sheriff's department in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of transportation to design road and drainage improvements to Soledad Canyon road in the Talavera area in Las Cruces in Dona Ana county. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 49 Laws 2018**

SECTION 49. TORTUGAS ROAD AND DRAINAGE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 40 of Section 25 of Chapter 66 of Laws 2014 to plan, design and construct road and drainage improvements in Tortugas in Dona Ana county is extended through fiscal year 2020.

## **Chapter 68 Section 50 Laws 2018**

SECTION 50. LAS CRUCES BRANIGAN LIBRARY EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 97 of Section 22 of Chapter 81 of Laws 2016 to plan, design, purchase and install equipment for the Thomas Branigan memorial library in Las Cruces in Dona Ana county is extended through fiscal year 2020.

### **Chapter 68 Section 51 Laws 2018**

SECTION 51. LAS CRUCES CENTRAL-CERVANTES COMPLEX MEDICAL AND DENTAL EQUIPMENT AND INFORMATION TECHNOLOGY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 106 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to equip the medical and dental rooms and to purchase and install information technology and telephone equipment, including related equipment, furniture and infrastructure, at the Las Cruces Central-Cervantes complex in Dona Ana county is extended through fiscal year 2020.

### **Chapter 68 Section 52 Laws 2018**

SECTION 52. LAS CRUCES FACILITY AND RELATED INFRASTRUCTURE FOR FILM, DIGITAL MEDIA AND ENTERTAINMENT ARTS PRODUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subsection 104 of Section 22 of Chapter 66 of Laws 2014 and reauthorized in Laws 2015, Chapter 147, Section 24 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 is extended through fiscal year 2020.

### **Chapter 68 Section 53 Laws 2018**

SECTION 53. LAS CRUCES STREET IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 35 of Section 25 of Chapter 66 of Laws 2014 to plan, design and construct street improvements in Las Cruces in Dona Ana county is extended through fiscal year 2020.

### **Chapter 68 Section 54 Laws 2018**

SECTION 54. LAS CRUCES TRAFFIC SAFETY MANAGEMENT CONTROL CENTER CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 102 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct a traffic safety management control center in Las Cruces in Dona Ana county is extended through fiscal year 2020.

### **Chapter 68 Section 55 Laws 2018**

SECTION 55. LAS CRUCES WOMEN VETERANS MONUMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 103 of Section 22 of Chapter 66 of Laws 2014 to construct a women veterans monument at Veterans Memorial park in Las Cruces in Dona Ana county is extended through fiscal year 2020.

### **Chapter 68 Section 56 Laws 2018**

SECTION 56. MESILLA VALLEY COMMUNITY OF HOPE BUILDING HEALTH FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 101 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct, renovate, equip and furnish a health facility at the Mesilla Valley community of hope building in Las Cruces in Dona Ana county is extended through fiscal year 2020.

### **Chapter 68 Section 57 Laws 2018**

SECTION 57. NEW MEXICO STATE UNIVERSITY FILM AND EDITING EQUIPMENT AND CREATIVE MEDIA INSTITUTE FACILITIES FURNISHINGS AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the board of regents of New Mexico state university project in Subsection 5 of Section 39 of Chapter 3 of Laws 2015 (S.S.) to purchase film and editing equipment and to furnish and equip facilities in the creative media institute at New Mexico state university in Las Cruces in Dona Ana county is extended through fiscal year 2020.

### **Chapter 68 Section 58 Laws 2018**

SECTION 58. DONA ANA COUNTY SHERIFF'S DEPARTMENT CRIME DATA ANALYSIS SYSTEM--CHANGE TO SOLEDAD CANYON ROAD IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 90 of Section 22 of Chapter 81 of Laws 2016 to plan, design, purchase and install a crime data analysis system, including information technology and related equipment, furniture and infrastructure, for the sheriff's department in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of transportation to design road and drainage improvements to Soledad Canyon road in the Talavera area of Las Cruces in Dona Ana county. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 59 Laws 2018**

SECTION 59. DONA ANA COUNTY LAW ENFORCEMENT TRAINING ACADEMY PHASE 1--CHANGE TO SOLEDAD CANYON ROAD IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 91 of Section 22 of Chapter 66 of Laws 2014 for phase 1 planning, design and construction of

a law enforcement training academy in Las Cruces in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of transportation to design road and drainage improvements to Soledad Canyon road in the Talavera area of Las Cruces in Dona Ana county. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 60 Laws 2018**

SECTION 60. DONA ANA BALLPARK LIGHTING IMPROVEMENTS--CHANGE TO SOLEDAD CANYON ROAD IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 95 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct, equip and install lighting improvements to the Dona Ana ballpark in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of transportation to design road and drainage improvements to Soledad Canyon road in the Talavera area of Las Cruces in Dona Ana county. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 61 Laws 2018**

~~[SECTION 61. DONA ANA COUNTY MESQUITE PARK IMPROVEMENTS--CHANGE TO VADO WASTEWATER COLLECTION SYSTEM--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 98 of Section 22 of Chapter 81 of Laws 2016 to plan, design and construct improvements to Mesquite park, including accessibility and equipment upgrades, in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and improve the wastewater collection system in Vado in Dona Ana county.]~~ *LINE-ITEM VETO*

### **Chapter 68 Section 62 Laws 2018**

SECTION 62. DONA ANA COUNTY SHERIFF'S DEPARTMENT VEHICLES--CHANGE TO VADO WASTEWATER COLLECTION SYSTEM--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 112 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to purchase and equip vehicles for the sheriff's department in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and improve the wastewater collection system in Vado in Dona Ana county. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 63 Laws 2018**

SECTION 63. HURLEY CEMETERY IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division

project in Subsection 116 of Section 22 of Chapter 66 of Laws 2014 to purchase property for and to plan, design, construct, equip and furnish improvements to the cemetery in Hurley in Grant county is extended through fiscal year 2020.

### **Chapter 68 Section 64 Laws 2018**

SECTION 64. POWER LAKE DAM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the office of the state engineer project in Subsection 6 of Section 15 of Chapter 66 of Laws 2014 to plan, design, renovate and construct improvements to the Power Lake dam in Guadalupe county is extended through fiscal year 2020.

### **Chapter 68 Section 65 Laws 2018**

SECTION 65. LOVINGTON WATER METERS AND EQUIPMENT--CHANGE TO SUPERVISORY CONTROL AND DATA ACQUISITION EQUIPMENT AND WASTEWATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 34 of Section 18 of Chapter 81 of Laws 2016 for radio-read water meters and related equipment in Lovington in Lea county shall not be expended for the original purpose but is changed to plan, design, install, equip, replace and purchase additions to the supervisory control and data acquisition system and related equipment for the wastewater lift stations, wastewater system and wastewater treatment plant in Lovington.

### **Chapter 68 Section 66 Laws 2018**

SECTION 66. LOVINGTON WELLS--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The department of environment project originally authorized in Subsection 19 of Section 11 of Chapter 64 of Laws 2012 to plan, design and construct wells in Lovington in Lea county and reauthorized in Laws 2016, Chapter 83, Section 52 to extend the expenditure period may include purchase and installation of equipment for water wells and water system improvements in Lovington. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 67 Laws 2018**

SECTION 67. LOVINGTON WELLS AND WATER SYSTEM--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The department of environment project originally authorized in Subsection 50 of Section 16 of Chapter 66 of Laws 2014 and reauthorized in Laws 2016, Chapter 83, Section 51 to acquire land for and to plan, design and construct wells and water system improvements for Lovington in Lea county may include purchase and installation of equipment for water wells and water system improvements in Lovington. The time of expenditure is extended through fiscal year 2020.



## **Chapter 68 Section 68 Laws 2018**

SECTION 68. CAPITAN COMMUNITY CENTER RENOVATION--CHANGE TO CAPITAN WATER LINE REPLACEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--Fifty thousand dollars (\$50,000) of the unexpended balance of the appropriation to the local government division in Subsection 133 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct, renovate, landscape, equip and furnish the community center in Capitan in Lincoln county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct, repair and replace water lines in Capitan. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 69 Laws 2018**

~~[SECTION 69. CAPITAN COMMUNITY CENTER RENOVATION--CHANGE TO WATER AND WASTEWATER DEPARTMENT STORAGE BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--Fifty thousand dollars (\$50,000) of the unexpended balance of the appropriation to the local government division in Subsection 133 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct, renovate, landscape, equip and furnish the community center in Capitan in Lincoln county shall not be expended for the original purpose but is changed to plan, design, purchase, construct, equip and furnish a storage building for the water and wastewater department in Capitan. The time of expenditure is extended through fiscal year 2020.]~~ *LINE-ITEM VETO*

## **Chapter 68 Section 70 Laws 2018**

SECTION 70. CARRIZOZO DETENTION CENTER EXPANSION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 130 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct and furnish an expansion to the detention center in Carrizozo in Lincoln county is extended through fiscal year 2020.

## **Chapter 68 Section 71 Laws 2018**

SECTION 71. COYOTE CANYON CHAPTER SENIOR CENTER MEALS EQUIPMENT--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The aging and long-term services department project in Subsection 38 of Section 3 of Chapter 3 of Laws 2015 (S.S.) to purchase and install meals equipment at the senior center in the Coyote Canyon chapter of the Navajo Nation in McKinley county may include construction, renovation, equipping and furnishing at that senior center. The time of expenditure is extended through fiscal year 2019.

## **Chapter 68 Section 72 Laws 2018**

SECTION 72. NAVAJO TECHNICAL UNIVERSITY ACCESSIBILITY IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The higher education department project in Subsection 5 of Section 34 of Chapter 3 of Laws 2015 (S.S.) for health, security and safety improvements campuswide to comply with current accessibility codes at Navajo technical university in Crownpoint in McKinley county may include other health, security and safety improvements campuswide at Navajo technical university.

### **Chapter 68 Section 73 Laws 2018**

SECTION 73. RED LAKE CHAPTER CHARTER SCHOOL--CHANGE TO FACILITY RENOVATION IN NAVAJO IN MCKINLEY COUNTY--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 20 of Section 25 of Chapter 3 of Laws 2015 (S.S.) for a charter school in the Red Lake chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct and renovate a facility in Navajo in McKinley county. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 74 Laws 2018**

SECTION 74. SHONDEEN DRIVE IMPROVEMENTS ROCK SPRINGS CHAPTER--CHANGE TO NORTH CHAPEL HILL ROAD IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 56 of Section 24 of Chapter 81 of Laws 2016 to plan, design and construct improvements to Shondeen drive in the Rock Springs chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is changed to plan, design and construct improvements to north Chapel Hill road in the Rock Springs chapter.

### **Chapter 68 Section 75 Laws 2018**

SECTION 75. SHONDEEN DRIVE ROCK SPRINGS CHAPTER IMPROVEMENTS--CHANGE TO NORTH CHAPEL HILL ROAD--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 50 of Section 33 of Chapter 3 of Laws 2015 (S.S.) to plan, design and construct improvements to Shondeen drive in the Rock Springs chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is changed to plan, design and construct improvements to North Chapel Hill road in that chapter. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 76 Laws 2018**

~~[SECTION 76. TOHATCHI POWER LINE EXTENSIONS--CHANGE TO POWER LINE EXTENSIONS AND HOUSE WIRING, INCLUDING RED WILLOW FARM--~~

~~EXTEND TIME--GENERAL FUND.--Sixty thousand dollars (\$60,000) of the unexpended balance of the appropriation originally made to the local government division in Subsection 154 of Section 26 of Chapter 2 of Laws 2007 and reappropriated to the Indian affairs department in Laws 2009, Chapter 128, Section 312 and for which the time of expenditure was extended in Laws 2011, Chapter 183, Section 66 and in Laws 2013, Chapter 202, Section 26 and again in Laws 2015, Chapter 147, Section 39 and again in Laws 2017, Chapter 133, Section 65 to plan, design and construct power line extensions in the Tohatchi chapter of the Navajo Nation in McKinley county shall not be expended for the original or reappropriated purposes but is changed to plan, design and construct power line extensions and house wiring in the Tohatchi chapter, including in Red Willow farm. The time of expenditure is extended through fiscal year 2020.~~

### **Chapter 68 Section 77 Laws 2018**

~~SECTION 77. TOHATCHI POWER LINE EXTENSIONS--CHANGE TO TOHATCHI CHAPTER WAREHOUSE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--One hundred fifty thousand dollars (\$150,000) of the unexpended balance of the appropriation originally made to the local government division in Subsection 154 of Section 26 of Chapter 2 of Laws 2007 and reappropriated to the Indian affairs department in Laws 2009, Chapter 128, Section 312 and for which the time of expenditure was extended in Laws 2011, Chapter 183, Section 66 and in Laws 2013, Chapter 202, Section 26 and again in Laws 2015, Chapter 147, Section 39 and again in Laws 2017, Chapter 133, Section 65 to plan, design and construct power line extensions in the Tohatchi chapter of the Navajo Nation in McKinley county shall not be expended for the original or reappropriated purposes but is changed to plan, design and construct a warehouse for the chapter. The time of expenditure is extended through fiscal year 2020.] *LINE-ITEM VETO*~~

### **Chapter 68 Section 78 Laws 2018**

~~SECTION 78. UPPER HOLMAN COMMUNITY MUTUAL DOMESTIC WATER CONSUMERS AND MUTUAL SEWAGE WORKS ASSOCIATION FLUORIDE TREATMENT FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project originally authorized in Subsection 148 of Section 16 of Chapter 66 of Laws 2014 to plan, design and construct a fluoride treatment facility for the upper Holman community mutual domestic water consumers and mutual sewage works association in Holman in Mora county and reauthorized in Laws 2016, Chapter 83, Section 65 to allow acquisition of land for the facility is extended through fiscal year 2020.~~

### **Chapter 68 Section 79 Laws 2018**

~~SECTION 79. MORA INDEPENDENT SCHOOL DISTRICT ACCESSIBILITY IMPROVEMENTS--CHANGE TO PURCHASE AND INSTALL INFORMATION TECHNOLOGY--SEVERANCE TAX BONDS.--The unexpended balance of the~~

appropriation to the public education department in Subsection 220 of Section 15 of Chapter 3 of Laws 2015 (S.S.) for accessibility improvements, including sidewalks, in the Mora independent school district in Mora county shall not be expended for the original purpose but is changed to purchase and install information technology, including related equipment, furniture and infrastructure, in the district.

### **Chapter 68 Section 80 Laws 2018**

SECTION 80. SANDIA PUEBLO WILDLAND BRUSH FIRE TRUCK--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project in Subsection 51 of Section 25 of Chapter 3 of Laws 2015 (S.S.) to purchase and equip a wildland brush fire truck for the Pueblo of Sandia in Sandoval county is extended through fiscal year 2020.

### **Chapter 68 Section 81 Laws 2018**

SECTION 81. NORTH CENTRAL NEW MEXICO BROADBAND INFRASTRUCTURE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of information technology project originally authorized 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 and reauthorized to the local government division in Laws 2015, Chapter 147, Section 43 for that purpose is extended through fiscal year 2020.

### **Chapter 68 Section 82 Laws 2018**

SECTION 82. SPACEPORT AMERICA SOUTHERN ACCESS ROAD CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the spaceport authority project in Subsection 1 of Section 24 of Chapter 66 of Laws 2014 to plan, design and construct, including rights of way, easements and archaeological studies, the southern access road to spaceport America in Dona Ana and Sierra counties is extended through fiscal year 2019.

### **Chapter 68 Section 83 Laws 2018**

SECTION 83. SPACEPORT TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the spaceport authority project originally authorized in Subsection C of Section 76 of Chapter 92 of Laws 2008 to purchase rights of way, plan, design and construct drainage and paving improvements and transportation infrastructure improvements in Sierra county and Dona Ana county related to the spaceport, and for which the time of expenditure was extended in Laws 2012, Chapter 63, Section 62 and again in Laws 2014, Chapter 64, Section 37 and again in Laws 2016, Chapter 83, Section 69 is extended through fiscal year 2019.

## **Chapter 68 Section 84 Laws 2018**

SECTION 84. ALAMOGORDO CHILD DEVELOPMENT CENTER RENOVATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 151 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct phase 2 renovations for a child development center in Alamogordo in Otero county is extended through fiscal year 2020.

## **Chapter 68 Section 85 Laws 2018**

SECTION 85. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED DITZLER AUDITORIUM AND RECREATION CENTER, LIBRARY BUILDING AND INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The time of expenditure for the board of regents of the New Mexico school for the blind and visually impaired project originally authorized in Subsection 1 of Section 45 of Chapter 66 of Laws 2014 to plan, design, construct, renovate, equip and furnish the Ditzler auditorium and recreation center and the library building, including demolition of the Bert Reeves learning center, and to make other infrastructure improvements campuswide at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county, and that was amended in Laws 2016, Chapter 83, Section 113 to clarify the funding source, is extended through fiscal year 2020.

## **Chapter 68 Section 86 Laws 2018**

SECTION 86. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED QUIMBY GYMNASIUM, NATATORIUM AND INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The time of expenditure for the board of regents of the New Mexico school for the blind and visually impaired project originally authorized in Subsection 2 of Section 45 of Chapter 66 of Laws 2014 to plan, design, construct, renovate, equip and furnish the Quimby gymnasium and natatorium and to make other infrastructure improvements campuswide at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county, and that was amended by Laws 2016, Chapter 83, Section 113 to clarify the funding source, is extended through fiscal year 2020.

## **Chapter 68 Section 87 Laws 2018**

SECTION 87. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED RESIDENTIAL COTTAGES AND INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The time of expenditure for the board of regents of the New Mexico school for the blind and visually impaired appropriation originally authorized in Subsection 3 of Section 45 of Chapter 66 of Laws 2014 to plan, design, construct, renovate, equip and furnish residential cottages, including the demolition of Sacramento dormitory, and to make other infrastructure improvements campuswide at the New Mexico school for the blind and visually impaired

in Alamogordo in Otero county, and that was amended by Laws 2016, Chapter 83, Section 113 to clarify the funding source, is extended through fiscal year 2020.

### **Chapter 68 Section 88 Laws 2018**

SECTION 88. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED WATKINS EDUCATION CENTER AND SAN ANDRES BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the board of regents of the New Mexico school for the blind and visually impaired project originally authorized in Subsection 3 of Section 54 of Chapter 226 of Laws 2013 to plan, design, renovate and equip the Watkins education center and to demolish the San Andres building at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county and for which the time of expenditure was extended in Laws 2017, Chapter 133, Section 77 is extended through fiscal year 2020.

### **Chapter 68 Section 89 Laws 2018**

~~[SECTION 89. RIO DE CHAMA ACEQUIAS WATER AND STORAGE RIGHTS--CHANGE TO PURCHASE OF WATER AND WATER STORAGE CONTRACT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the interstate stream commission originally authorized in Subsection 10 of Section 15 of Chapter 64 of Laws 2012 and reauthorized in Laws 2016, Chapter 83, Section 73 to purchase water rights and water storage rights at Abiquiu dam and El Vado dam for the Rio de Chama acequias association in the Medanales area in Rio Arriba county shall not be expended for the original or reauthorized purpose but is changed to establish a long-term water storage contract at Abiquiu and El Vado reservoirs and for a bulk purchase of water for the Rio de Chama acequias association. The time of expenditure is extended through fiscal year 2020.] LINE-ITEM VETO~~

### **Chapter 68 Section 90 Laws 2018**

SECTION 90. RIO ARRIBA COUNTY SALA FILANTROPICA RENOVATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 159 of Section 22 of Chapter 66 of Laws 2014 to renovate, furnish and expand the Sala Filantropica building into a multipurpose community facility in the Embudo valley in Rio Arriba county is extended through fiscal year 2020.

### **Chapter 68 Section 91 Laws 2018**

SECTION 91. ACEQUIA DE CHAMITA IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 10 of Section 21 of Chapter 66 of Laws 2014 to design and construct improvements to increase water flow in the acequia de Chamita in Rio Arriba county is extended through fiscal year 2020.

## **Chapter 68 Section 92 Laws 2018**

SECTION 92. RIO ARRIBA COUNTY SUBSTANCE ABUSE THERAPEUTIC FACILITY CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 163 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct a substance abuse therapeutic facility in Espanola in Rio Arriba county is extended through fiscal year 2020.

## **Chapter 68 Section 93 Laws 2018**

SECTION 93. PUEBLO OF SANTA CLARA GABION STRUCTURES--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project in Subsection 29 of Section 19 of Chapter 66 of Laws 2014 to plan and design gabion structures in Santa Clara creek in the Pueblo of Santa Clara in Rio Arriba county is extended through fiscal year 2020.

## **Chapter 68 Section 94 Laws 2018**

SECTION 94. CAUSEY WATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 85 of Section 16 of Chapter 66 of Laws 2014 to plan, design and construct water system improvements in Causey in Roosevelt county is extended through fiscal year 2020.

## **Chapter 68 Section 95 Laws 2018**

SECTION 95. EASTERN NEW MEXICO UNIVERSITY STUDENT INSTRUCTIONAL LABORATORIES INFORMATION TECHNOLOGY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the board of regents of eastern New Mexico university project in Subsection 4 of Section 26 of Chapter 81 of Laws 2016 to purchase and install information technology, including related equipment, furniture and infrastructure, for the student instructional laboratories at eastern New Mexico university in Portales in Roosevelt county is extended through fiscal year 2020.

## **Chapter 68 Section 96 Laws 2018**

~~[SECTION 96. ROOSEVELT COUNTY SPECIAL HOSPITAL DISTRICT SAFETY EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 184 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan, design, purchase and install safety and security equipment in the Roosevelt general hospital in the Roosevelt county special hospital district in Roosevelt county is extended through fiscal year 2020.~~

## **Chapter 68 Section 97 Laws 2018**

~~SECTION 97. UPPER FRUITLAND CHAPTER SENIOR CENTER CONSTRUCTION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 4 of Section 4 of Chapter 81 of Laws 2016 to plan, design, construct, equip and furnish a senior center in the Upper Fruitland chapter of the Navajo Nation in San Juan county is appropriated to the local government division for those purposes.] *LINE-ITEM VETO*~~

## **Chapter 68 Section 98 Laws 2018**

SECTION 98. EAST AZTEC ARTERIAL ROUTE CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 63 of Section 25 of Chapter 66 of Laws 2014 to construct the east Aztec arterial route in Aztec in San Juan county is extended through fiscal year 2020.

## **Chapter 68 Section 99 Laws 2018**

SECTION 99. DINE COLLEGE FIRE AND SAFETY ACCESS LANE--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The higher education department project in Subsection 9 of Section 34 of Chapter 3 of Laws 2015 (S.S.) to plan, design, construct and equip a fire and safety access lane, including fire hydrants and sidewalks, at the south Shiprock campus of Dine college in San Juan county may include purchase, installation and construction of lighting for that access lane.

## **Chapter 68 Section 100 Laws 2018**

~~[SECTION 100. TSE'DAA'KAAN CHAPTER IRRIGATION SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project originally authorized in Subsection 40 of Section 15 of Chapter 126 of Laws 2004 and reauthorized to the Indian affairs department in Laws 2009, Chapter 128, Section 394 and further reauthorized in Laws 2011, Chapter 183, Section 87 and reauthorized to the local government division in Laws 2012, Chapter 63, Section 73 and subsequently reauthorized to the Indian affairs department in Laws 2014, Chapter 64, Section 43 for irrigation system improvements, including a pump house and pumps, for the Hogback irrigation project in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county and for which the time of expenditure was extended in Laws 2016, Chapter 83, Section 86 is extended through fiscal year 2020.~~

## **Chapter 68 Section 101 Laws 2018**

~~SECTION 101. TSE'DAA'KAAN CHAPTER IRRIGATION SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project originally authorized in Subparagraph (c) of Paragraph (7) of Subsection A of Section 18 of Chapter 105 of~~



Laws 2010 and reauthorized to the local government division in Laws 2012, Chapter 63, Section 70 and further reauthorized to the Indian affairs department in Laws 2014, Chapter 64, Section 42 for irrigation system improvements, including rebuilding the pump house and replacing pumps, for the Hogback irrigation project in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county, and for which the expenditure period was extended in Laws 2016, Chapter 83, Section 85, is extended through fiscal year 2020.] *LINE-ITEM VETO*

### **Chapter 68 Section 102 Laws 2018**

SECTION 102. GABALDON MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION WATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 147 of Section 16 of Chapter 66 of Laws 2014 to plan, design and construct water system improvements, including a water supply well and treatment facility, for the Gabaldon mutual domestic water consumers association in Gabaldon in San Miguel county is extended through fiscal year 2019.

### **Chapter 68 Section 103 Laws 2018**

SECTION 103. LAS VEGAS BRADNER DAM CONSTRUCTION AND EXPANSION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the office of the state engineer project in Subsection 3 of Section 15 of Chapter 66 of Laws 2014 to plan, design, construct and expand Bradner dam in Las Vegas in San Miguel county is extended through fiscal year 2020.

### **Chapter 68 Section 104 Laws 2018**

SECTION 104. LUNA COMMUNITY COLLEGE MEDIA EDUCATION CENTER EXTERIOR IMPROVEMENTS--CHANGE TO RENOVATION, CONSTRUCTION AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the higher education department in Subsection 11 of Section 34 of Chapter 3 of Laws 2015 (S.S.) for exterior improvements to the media education center, including lighting and parking lot improvements, at Luna community college in Las Vegas in San Miguel county shall not be expended for the original purpose but is changed to design, renovate, construct and equip the media education center at Luna community college. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 105 Laws 2018**

SECTION 105. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE SECURITY AND INFRASTRUCTURE IMPROVEMENTS AND HAZARDOUS MATERIALS TESTING, ABATEMENT AND REMEDIATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 6 of Section 5 of Chapter 5 of Laws 2011 (S.S.) for security and infrastructure improvements at the New Mexico behavioral health institute in Las

Vegas in San Miguel county, and reauthorized in Laws 2016, Chapter 83, Section 87 to include mold and asbestos testing, abatement and remediation, is extended through fiscal year 2020.

### **Chapter 68 Section 106 Laws 2018**

SECTION 106. PECOS WATER AND WASTEWATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project originally authorized in Subsection 93 of Section 16 of Chapter 66 of Laws 2014 and reauthorized in Laws 2015, Chapter 147, Section 56 to design and construct water and wastewater system improvements, including a lift station, a sewer system extension, water line replacements, right-of-way acquisitions and roadway improvements, along Rincon road and New Mexico highway 63 in Pecos in San Miguel county is extended through fiscal year 2020.

### **Chapter 68 Section 107 Laws 2018**

SECTION 107. LAS VEGAS BRADNER DAM CONSTRUCTION--EXTEND TIME--ATTORNEY GENERAL SETTLEMENT FUND.--The time of expenditure for the office of the state engineer project in Laws 2014, Chapter 66, Section 38 to plan, design, construct and expand Bradner dam in Las Vegas in San Miguel county is extended through fiscal year 2020.

### **Chapter 68 Section 108 Laws 2018**

SECTION 108. ALGODONES ARSENIC TREATMENT SYSTEM--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 138 of Section 16 of Chapter 66 of Laws 2014 to plan, design, construct and install an arsenic treatment system in Algodones in Sandoval county is extended through fiscal year 2020.

### **Chapter 68 Section 109 Laws 2018**

SECTION 109. BERNALILLO STREET IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 70 of Section 25 of Chapter 66 of Laws 2014 to plan, design and construct improvements to streets in Bernalillo in Sandoval county is extended through fiscal year 2020.

### **Chapter 68 Section 110 Laws 2018**

SECTION 110. SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY ALBERTA ROAD DRAINAGE IMPROVEMENTS PHASE 2--CHANGE TO SARATOGA FLOOD DETENTION FACILITY CONSTRUCTION--

CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 72 of Section 25 of Chapter 66 of Laws 2014 to plan, design and construct phase 2 drainage improvements for flood control on Alberta road for the southern Sandoval county arroyo flood control authority in Rio Rancho in Sandoval county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct the Saratoga off-channel flood detention facility for the authority in Sandoval county. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 111 Laws 2018**

SECTION 111. SAN FELIPE PUEBLO RIO GRANDE SOUTH BRIDGE DESIGN--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 74 of Section 25 of Chapter 66 of Laws 2014 to design a south bridge over the Rio Grande in the Pueblo of San Felipe in Sandoval county is extended through fiscal year 2020.

### **Chapter 68 Section 112 Laws 2018**

SECTION 112. AGUA FRIA WATER BOARD OFFICE BUILDING ROOF--CHANGE TO MAINTENANCE BUILDING CONSTRUCTION AND PARKING LOT IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--Thirteen thousand three hundred seventy-eight dollars (\$13,378) of the unexpended balance of the appropriation to the local government division in Subsection 206 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan, design and construct improvements and roof replacement in the Agua Fria association water board office building in the Agua Fria area of Santa Fe county shall not be expended for the original purpose but is changed to plan, design, purchase and construct a maintenance, storage and utility building and parking lot improvements at the premises of the Agua Fria association water board office building in the Agua Fria area of Santa Fe county. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 113 Laws 2018**

SECTION 113. AGUA FRIA WATER BOARD OFFICE BUILDING ROOF--CHANGE TO SECURITY DOORS AND GATE--SEVERANCE TAX BONDS.--Seven thousand dollars (\$7,000) of the unexpended balance of the appropriation to the local government division in Subsection 206 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan, design and construct improvements and roof replacement in the Agua Fria association water board office building in the Agua Fria area of Santa Fe county shall not be expended for the original purpose but is changed for prior purchase made in 2017 of security doors and a gate at the premises of the Agua Fria association water board building in the Agua Fria area of Santa Fe county.

### **Chapter 68 Section 114 Laws 2018**

SECTION 114. SANTA FE COUNTY CHUPADERO WATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 107 of Section 16 of Chapter 66 of Laws 2014 to plan, design and construct improvements to the water system in Chupadero in Santa Fe county is extended through fiscal year 2020.

### **Chapter 68 Section 115 Laws 2018**

SECTION 115. FRESQUEZ DITCH IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 19 of Section 21 of Chapter 66 of Laws 2014 to plan, design and construct improvements to the Fresquez ditch in Cuarteles in Santa Fe county is extended through fiscal year 2020.

### **Chapter 68 Section 116 Laws 2018**

SECTION 116. SANTA FE COUNTY ELDORADO ROAD IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 76 of Section 25 of Chapter 66 of Laws 2014 to plan, design and construct improvements to roads in Eldorado in Santa Fe county is extended through fiscal year 2020.

### **Chapter 68 Section 117 Laws 2018**

SECTION 117. MCCURDY CHARTER SCHOOL LIBRARY EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 185 of Section 14 of Chapter 81 of Laws 2016 to equip two school libraries, including the purchase and installation of information technology and related equipment, furniture and infrastructure, at McCurdy charter school in Espanola in Santa Fe county is extended through fiscal year 2020.

### **Chapter 68 Section 118 Laws 2018**

SECTION 118. NEW MEXICO SCHOOL FOR THE ARTS FACILITIES CONSTRUCTION--CHANGE TO PREPARE SITE, DESIGN AND CONSTRUCT FACILITIES--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department originally authorized in Subsection 241 of Section 13 of Chapter 66 of Laws 2014 and reauthorized in Laws 2015, Chapter 147, Section 67 to plan, design and construct facilities for the New Mexico school for the arts in Santa Fe in Santa Fe county shall not be expended for the original or reauthorized purpose but is changed to prepare the site for and to plan, design, construct and equip facilities for the New Mexico school for the arts in Santa Fe county. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 119 Laws 2018**

SECTION 119. NEW MEXICO SCHOOL FOR THE DEAF CARTWRIGHT HALL--EXTEND TIME--PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The time of expenditure for the board of regents of the New Mexico school for the deaf project originally authorized in Laws 2014, Chapter 66, Section 46 to plan, design, construct, renovate, equip and furnish Cartwright hall at the New Mexico school for the deaf in Santa Fe in Santa Fe county, and that was amended by Laws 2016, Chapter 83, Section 114 to clarify the funding source, is extended through fiscal year 2020.

### **Chapter 68 Section 120 Laws 2018**

~~[SECTION 120. PALACE OF THE GOVERNORS PHOTO ARCHIVES EQUIPMENT--CHANGE TO SANTA FE CHILDREN'S MUSEUM ROOF AND STUCCO IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the cultural affairs department in Subsection 13 of Section 8 of Chapter 81 of Laws 2016 to purchase equipment for preserving and digitizing films, photographs and collections at the palace of the governors photo archives at the New Mexico history museum in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to repair roofing, parapets and stucco at the Santa Fe children's museum in Santa Fe. The time of expenditure is extended through fiscal year 2020.]~~ *LINE-ITEM VETO*

### **Chapter 68 Section 121 Laws 2018**

SECTION 121. SANTA FE COUNTY VISTA AURORA SEWER SYSTEM--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 111 of Section 16 of Chapter 66 of Laws 2014 to plan, design and construct improvements, including replacement of the lift station facility, for the Vista Aurora sewer system in Santa Fe in Santa Fe county is extended through fiscal year 2020.

### **Chapter 68 Section 122 Laws 2018**

SECTION 122. SANTA FE MUNICIPAL RECREATION COMPLEX RENOVATION AND EXPANSION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 201 of Section 22 of Chapter 66 of Laws 2014 to plan, design, construct, equip, furnish, renovate and expand the soccer fields and facilities at the municipal recreation complex in Santa Fe in Santa Fe county is extended through fiscal year 2020.

### **Chapter 68 Section 123 Laws 2018**

SECTION 123. SANTA FE COMMUNITY COLLEGE ALTERNATIVE AND RENEWABLE ENERGY LABORATORY RENOVATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the higher education department project in Subsection 5 of Section 26 of Chapter 66 of Laws 2014 to plan, design, construct, renovate, expand and equip classroom and laboratory space for

training in alternative and renewable energy and microgrids at Santa Fe community college in Santa Fe county is extended through fiscal year 2019.

### **Chapter 68 Section 124 Laws 2018**

SECTION 124. SANTA FE COMMUNITY COLLEGE AUTOMOTIVE EQUIPMENT--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The higher education department project in Subsection 7 of Section 25 of Chapter 81 of Laws 2016 to purchase and install automotive equipment for Santa Fe community college in Santa Fe county may include construction and equipping. The time of expenditure is extended through fiscal year 2019.

### **Chapter 68 Section 125 Laws 2018**

SECTION 125. STATE LAND OFFICE PARKING LOT, SIDEWALKS AND GROUNDS IMPROVEMENTS--EXTEND TIME--STATE LANDS MAINTENANCE FUND.--The time of expenditure for the state land office project originally authorized in Subsection 2 of Section 48 of Chapter 66 of Laws 2014 and reauthorized in Laws 2017, Chapter 133, Section 111 to plan, design, excavate, replace and construct the parking lot and sidewalks and to maintain and improve the grounds at the state land office in Santa Fe in Santa Fe county is extended through fiscal year 2019.

### **Chapter 68 Section 126 Laws 2018**

SECTION 126. NEW MEXICO STATE VETERANS' HOME ALZHEIMER'S UNIT AND SKILLED NURSING FACILITY--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project originally authorized in Subsection 14 of Section 5 of Chapter 92 of Laws 2008 to construct the Alzheimer's unit and skilled nursing facility at the New Mexico state veterans' home in Truth or Consequences in Sierra county and reauthorized in Laws 2012, Chapter 63, Section 99 to include planning, design, equipping, furnishing and landscaping and for which the time of expenditure was extended again in Laws 2014, Chapter 64, Section 54 and further extended in Laws 2016, Chapter 83, Section 102 may include construction, renovation and other infrastructure improvements at the New Mexico state veterans' home. The time of expenditure is extended through fiscal year 2019.

### **Chapter 68 Section 127 Laws 2018**

SECTION 127. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY JONES HALL EQUIPMENT AND FURNISHINGS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the board of regents of the New Mexico institute of mining and technology project in Laws 2016, Chapter 81, Section 29 to purchase and install equipment and furnishings in Jones hall at the New Mexico institute of mining and technology in Socorro in Socorro county is extended through fiscal year 2019.

## **Chapter 68 Section 128 Laws 2018**

SECTION 128. 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 (1st S.S.) and for which the expenditure period was extended in Laws 2013, Chapter 202, Section 48 and again in Laws 2015, Chapter 147, Section 74 to repair and rehabilitate acequia water storage projects statewide, and for which the expenditure period was extended again in Laws 2017, Chapter 133, Section 116, is extended through fiscal year 2019.

## **Chapter 68 Section 129 Laws 2018**

SECTION 129. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT FEDERAL EMERGENCY MANAGEMENT AGENCY HAZARDOUS MITIGATION GRANT MATCH--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the appropriation to the homeland security and emergency management department in Laws 2014, Chapter 66, Section 35 to match a federal emergency management agency hazardous mitigation grant is extended through fiscal year 2019.

## **Chapter 68 Section 130 Laws 2018**

SECTION 130. PECOS RIVER SETTLEMENT LAND AND WATER RIGHTS PURCHASES--EXTEND TIME--ATTORNEY GENERAL SETTLEMENT FUND.--The time of expenditure for the interstate stream commission project in Subsection 1 of Section 37 of Chapter 66 of Laws 2014 to purchase land and water rights within the interstate stream commission's existing pricing guidelines and for the development of augmentation well fields and pipelines and related professional services for the Pecos River Compact settlement is extended through fiscal year 2020.

## **Chapter 68 Section 131 Laws 2018**

~~[SECTION 131. ACEQUIA IMPROVEMENTS STATEWIDE--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the interstate stream commission in Subsection 21 of Section 21 of Chapter 81 of Laws 2016 to plan, design and construct improvements to acequias statewide for the New Mexico acequia commission is appropriated to the local government division for those purposes and may include purchase and installation of equipment.]~~ *LINE-ITEM VETO*

## **Chapter 68 Section 132 Laws 2018**

SECTION 132. MUSEUM RESOURCES DIVISION HALPIN BUILDING INFRASTRUCTURE UPGRADES--CHANGE TO CULTURAL AFFAIRS DEPARTMENT

FACILITIES RENOVATION AND REPAIRS STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the cultural affairs department in Subsection 14 of Section 8 of Chapter 3 of Laws 2015 (S.S.) for infrastructure upgrades in the Halpin building for the museum resources division in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to plan, design and construct renovations and repairs at museums, historic sites and cultural facilities owned by the cultural affairs department statewide. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 133 Laws 2018**

SECTION 133. EL CAMINO REAL HISTORIC SITE AMPHITHEATER SHADE STRUCTURE--CHANGE TO HISTORIC SITE RENOVATIONS STATEWIDE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the cultural affairs department in Subsection 20 of Section 8 of Chapter 3 of Laws 2015 (S.S.) to plan, design and construct a shade structure for El Camino Real historic site amphitheater in Socorro county shall not be expended for the original purpose but is changed to plan, design and construct renovations and repairs at historic sites statewide.

### **Chapter 68 Section 134 Laws 2018**

SECTION 134. SOUTHERN NEW MEXICO CORRECTIONAL FACILITY AND CENTRAL NEW MEXICO CORRECTIONAL FACILITY KITCHENS RENOVATION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project originally authorized in Subsection 3 of Section 5 of Chapter 5 of Laws 2011 (S.S.) to renovate and equip the kitchens at the southern New Mexico correctional facility in Dona Ana county and the central New Mexico correctional facility in Valencia county, and reauthorized in Laws 2016, Chapter 83, Section 68 to extend the expenditure period, may include planning, design, construction, renovation, equipment and other infrastructure improvements at correctional facilities statewide. The time of expenditure is extended through fiscal year 2020.

### **Chapter 68 Section 135 Laws 2018**

SECTION 135. ALBUQUERQUE CHILD WELLNESS CENTER FURNISHINGS, FIXTURES, EQUIPMENT AND INFRASTRUCTURE--CHANGE TO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FACILITY IMPROVEMENTS STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund in Subsection 1 of Section 7 of Chapter 81 of Laws 2016 to purchase and install furnishing, fixtures, equipment and related infrastructure for a child wellness center in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct and make other infrastructure improvements at children, youth and families department facilities statewide. The time of expenditure is extended through fiscal year 2020.



## **Chapter 68 Section 136 Laws 2018**

SECTION 136. HENRY PEREA BUILDING MEDICAL EXAMINATION ROOM IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The capital program fund project in Subsection 14 of Section 7 of Chapter 81 of Laws 2016 to plan, design and construct improvements to the medical examination room at the Henry Perea building in Los Lunas in Valencia county may include equipment and infrastructure improvements at children, youth and families department facilities statewide.

## **Chapter 68 Section 137 Laws 2018**

SECTION 137. EAGLE NEST REINTEGRATION CENTER FIRE ALARM SYSTEM--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project in Subsection 6 of Section 7 of Chapter 81 of Laws 2016 to plan, design, purchase and install a fire alarm system at the reintegration center in Eagle Nest in Colfax county may include equipment and other infrastructure improvements at children, youth and families department facilities statewide. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 138 Laws 2018**

SECTION 138. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE NEW MEADOWS LONG-TERM CARE FACILITY PATIENT HOUSING UNITS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 4 of Section 5 of Chapter 64 of Laws 2012 for patient housing units at the New Meadows long-term care facility at the New Mexico behavioral health institute in Las Vegas in San Miguel county and for other patient health and safety improvements at department of health facilities statewide, and for which the time of expenditure was extended in Laws 2016, Chapter 83, Section 88, is extended through fiscal year 2020.

## **Chapter 68 Section 139 Laws 2018**

SECTION 139. PRE-KINDERGARTEN CLASSROOM CONSTRUCTION--CHANGE AGENCY--EXTEND TIME--PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The unexpended balance of the appropriation to the public education department in Subsection 1 of Section 40 of Chapter 81 of Laws 2016 to plan, design, renovate and construct public school pre-kindergarten classrooms statewide is appropriated to the public school facilities authority, contingent upon approval by the public school capital outlay council, for those purposes. Notwithstanding the provisions of Section 22-24-5 NMSA 1978, the public school capital outlay council shall award grants for pre-kindergarten projects based on criteria and an application process established by the council. The time of expenditure is extended through fiscal year 2021.

## **Chapter 68 Section 140 Laws 2018**

SECTION 140. CORRECTIONS DEPARTMENT WOMEN'S TRANSITIONAL LIVING FACILITIES IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project originally authorized in Subsection 10 of Section 5 of Chapter 64 of Laws 2012, for which the certification period was extended in Laws 2014, Chapter 64, Section 60 and that was reauthorized in Laws 2015, Chapter 147, Section 81 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 may include improvements and equipment for corrections facilities statewide. The time of expenditure is extended through fiscal year 2019.

## **Chapter 68 Section 141 Laws 2018**

SECTION 141. QUESTA WATER RIGHTS PURCHASE--CHANGE TO AMBULANCE PURCHASE--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--Thirty-three thousand one hundred eighty-four dollars (\$33,184) of the unexpended balance of the appropriation to the department of environment in Subsection 121 of Section 16 of Chapter 66 of Laws 2014 to purchase water rights for Questa in Taos county shall not be expended for the original purpose but is appropriated to the local government division to purchase and equip an ambulance for Questa. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 142 Laws 2018**

SECTION 142. QUESTA WATER RIGHTS PURCHASE--CHANGE TO VETERANS' CENTER EQUIPMENT--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--Thirty thousand dollars (\$30,000) of the unexpended balance of the appropriation to the department of environment in Subsection 121 of Section 16 of Chapter 66 of Laws 2014 to purchase water rights for Questa in Taos county shall not be expended for the original purpose but is appropriated to the local government division to purchase equipment for a veterans' center in Questa. The time of expenditure is extended through fiscal year 2020.

## **Chapter 68 Section 143 Laws 2018**

SECTION 143. CLAYTON CIVIC CENTER RENOVATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 215 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct renovations and roof replacement in the civic center in Clayton in Union county is extended through fiscal year 2020.

## **Chapter 68 Section 144 Laws 2018**

SECTION 144. CLAYTON GROUND WATER MONITORING WELL--CHANGE TO CLAYTON IRRIGATION WELL AND WASTEWATER LAGOONS IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 91 of Section 18 of Chapter 81 of Laws 2016 to plan, design and construct a ground water monitoring well in Clayton in Union county shall not be expended for the original purpose but is changed to plan, design and construct improvements to irrigation well 19AW and wastewater lagoons 1, 2, 3 and 4 in Clayton.

## **Chapter 68 Section 145 Laws 2018**

SECTION 145. CLAYTON TOWN HALL RENOVATIONS AND ROOF REPLACEMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 217 of Section 22 of Chapter 66 of Laws 2014 to plan, design and construct renovations and roof replacement at the town hall in Clayton in Union county is extended through fiscal year 2020.

## **Chapter 68 Section 146 Laws 2018**

SECTION 146. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SFC/Senate Bill 245, w/ec, partial veto

Approved March 7, 2018

# **LAWS 2018, CHAPTER 69**

AN ACT

RELATING TO TELECOMMUNICATIONS; ENACTING THE WIRELESS CONSUMER ADVANCED INFRASTRUCTURE INVESTMENT ACT; ESTABLISHING PROVISIONS FOR THE DEPLOYMENT OF CELLULAR NETWORK NODES IN PUBLIC RIGHTS OF WAY.

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

## **Chapter 69 Section 1 Laws 2018**

SECTION 1. SHORT TITLE.--This act may be cited as the "Wireless Consumer Advanced Infrastructure Investment Act".

## **Chapter 69 Section 2 Laws 2018**

SECTION 2. DEFINITIONS.--As used in the Wireless Consumer Advanced Infrastructure Investment Act:

A. "antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals and that is used to provide wireless services;

B. "applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization and enacted by the authority, including the local amendments to those codes enacted by the authority solely to address imminent threats of destruction of property or injury to persons, to the extent that those amendments are consistent with the Wireless Consumer Advanced Infrastructure Investment Act;

C. "applicant" means a wireless provider that submits an application;

D. "application" means a request submitted by an applicant to an authority for a permit to collocate one or more small wireless facilities or to approve the installation, modification or replacement of a utility pole or wireless support structure;

E. "authority" means a municipality or county;

F. "authority utility pole" means a utility pole, owned or operated by an authority, in a right of way;

G. "collocate" means to install, mount, maintain, modify, operate or replace one or more wireless facilities on, in or adjacent to a wireless support structure or utility pole;

H. "communications service" means cable service as defined in 47 U.S.C. Section 522(6), information service as defined in 47 U.S.C. Section 153(24), mobile service as defined in 47 U.S.C. Section 153(33), telecommunications service as defined in 47 U.S.C. Section 153(53) or wireless service other than mobile service;

I. "fee" means a one-time charge;

J. "law" includes federal, state or local law;

K. "permit" means the written permission of an authority for a wireless provider to install, mount, maintain, modify, operate or replace a utility pole or to collocate a small wireless facility on a utility pole or wireless support structure;

L. "person":

(1) means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization; and

(2) includes an authority;

M. "private easement" means an easement or other real property right given for the benefit of the grantee of the easement and the grantee's successors and assigns;

N. "rate" means a recurring charge;

O. "right of way":

(1) means the area on, below or above a public roadway, highway, street, sidewalk, alley or utility easement; and

(2) does not include the area on, below or above:

(a) a federal interstate highway;

(b) a state highway or route under the jurisdiction of the department of transportation;

(c) a private easement; or

(d) a utility easement that does not authorize the deployment sought by a wireless provider;

P. "small wireless facility" means a wireless facility whose:

(1) antennas are, or could fit, inside an enclosure with a volume of six or fewer cubic feet; and

(2) other ground- or pole-mounted wireless equipment, not including the following, is twenty-eight or fewer cubic feet in volume:

(a) electric meter;

(b) concealment elements;

(c) telecommunications demarcation box;

(d) grounding equipment;

(e) power transfer switch;

(f) cutoff switch;

(g) vertical cable runs for the connection of power and other services; and

(h) elements required by an authority in accordance with Subsection H of Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act;

Q. "utility pole":

(1) means a pole or similar structure used in whole or in part for communications services, electricity distribution, lighting or traffic signals; and

(2) does not include a wireless support structure or electric transmission structure;

R. "wireless facility":

(1) means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(a) equipment associated with wireless communications; and

(b) radio transceivers, antennas, coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration;

(2) includes a small wireless facility; and

(3) does not include:

(a) the structure or improvements on, under or within which the equipment is collocated;

(b) a wireline backhaul facility, coaxial cable or fiber-optic cable between wireless support structures or utility poles; or

(c) coaxial or fiber-optic cable otherwise not immediately adjacent to, or directly associated with, an antenna;

S. "wireless infrastructure provider" means a person, other than a wireless services provider, that may provide telecommunications service in New Mexico and that

builds or installs wireless communications transmission equipment, wireless facilities' utility poles or wireless support structures;

T. "wireless provider" means a wireless infrastructure provider or wireless services provider;

U. "wireless services" means services provided to the public that use licensed or unlicensed spectrum, either mobile or at a fixed location, through wireless facilities;

V. "wireless services provider" means a person that provides wireless services;

W. "wireless support structure" means a freestanding structure, including a monopole or guyed or self-supporting tower, but not including a utility pole; and

X. "wireline backhaul facility" means a facility used to transport services by wire from a wireless facility to a network.

## **Chapter 69 Section 3 Laws 2018**

### **SECTION 3. WIRELESS PROVIDER--USE OF RIGHT OF WAY--RATES, FEES AND TERMS--RIGHT TO ACCESS--DAMAGE AND REPAIR.--**

A. This section applies to the activities of a wireless provider within a right of way.

B. An authority shall not enter into an exclusive agreement with a wireless provider for the use of a right of way in:

(1) constructing, installing, maintaining, modifying, operating or replacing a utility pole; or

(2) collocating a small wireless facility on a utility pole or wireless support structure.

C. An authority may charge a wireless provider a rate or fee for the provider's use of a right of way in constructing, installing, maintaining, modifying, operating or replacing a utility pole, or in collocating a small wireless facility, in the right of way only if:

(1) the authority otherwise may, under law, charge the rate or fee;

(2) the authority charges other communications service providers for their use, if any, of the right of way; and

(3) the rate or fee:

(a) is competitively neutral as compared to other users, if any, of the right of way, unless the other users are exempt under law from paying a rate or fee for their use of the right of way;

(b) is not in the form of a franchise or other fee based on revenue or customer counts;

(c) is reasonable and nondiscriminatory; and

(d) annually, does not exceed an amount equal to two hundred fifty dollars (\$250) multiplied by the number of small wireless facilities placed by the wireless provider in the right of way and in the authority's jurisdiction.

D. An authority may adjust the rate it charges for the use of a right of way, but no more often than once a year and by no more than an amount equal to one-half the annual change, if any, in the most recent consumer price index for all urban consumers for New Mexico, as published by the United States department of labor. An authority that adjusts that rate shall notify all wireless providers charged the pre-adjusted rate of the prospective adjustment and shall make the adjustment effective sixty days or more following that notice.

E. Except as otherwise provided in the Wireless Consumer Advanced Infrastructure Investment Act, and subject to the approval of an application as provided in Section 4 of that act, a wireless provider may collocate small wireless facilities and construct, install, modify, mount, maintain, operate and replace utility poles associated with the collocation of a small wireless facility along, across, on or under the right of way.

F. If a wireless provider or the provider's contractor causes damage to the authority's property or right of way while the provider or contractor occupies, installs, repairs or maintains a small wireless facility, wireless support structure or utility pole in the right of way, the authority may require the provider to return the property to its pre-damage condition according to the authority's requirements and specifications if the requirements and specifications are competitively neutral and reasonable and upon written notice of the requirement to the provider. If the provider does not, within a reasonable period after receiving the notice, repair the property as required by the authority, the authority may make the repairs and charge the provider the reasonable, documented cost of the repairs.

G. A wireless provider that deploys a utility pole or small wireless facility in a right of way shall construct, maintain and locate it so as not to obstruct or hinder the usual travel on, or endanger the public in, the right of way, damage or interfere with another utility facility in the right of way or interfere with another utility's use of its facility in the right of way. In constructing and maintaining its utility pole or small wireless



facility, the wireless provider shall comply with the national electrical safety code and all applicable laws for the protection of underground and overhead utility facilities. An authority shall treat a wireless provider's utility poles and small wireless facilities in a right of way as it does the facilities, if any, of other utilities in the right of way; however, the authority may adopt reasonable regulations concerning the separation of the wireless provider's utility poles and small wireless facilities from other utility facilities in the right of way to prevent damage to, or interference with, the facilities or to prevent interference with a utility's use of its facility or facilities in, or to be placed in, the right of way.

H. Subject to Subsection E of Section 4 of the Wireless Consumer Advanced Infrastructure Investment Act, an authority may require, as they pertain to small wireless facilities located in design districts or historic districts, reasonable, technically feasible, non-discriminatory and technologically neutral design or concealment measures and reasonable measures for conforming to the design aesthetics of design districts or historic districts, as long as the measures do not have the effect of prohibiting a wireless provider's technology. As used in this subsection:

(1) "design district" means an area zoned or otherwise designated by municipal ordinance and for which a municipality maintains and uniformly enforces unique design and aesthetic standards; and

(2) "historic district" means a group of buildings, properties or sites that fall within the category defined in 47 C.F.R. 1.1307(a)(4) and are:

(a) listed in the national register of historic places or formally determined eligible for listing in that register by the keeper of the register in accordance with the nationwide programmatic agreement found in 47 C.F.R. Part 1, Appendix C; or

(b) designated as a historic district in accordance with the Historic District and Landmark Act.

I. Without the authority's discretionary and written consent, which the authority shall give in a nondiscriminatory way, a wireless provider shall not install a new utility pole in a right of way adjacent to a street or thoroughfare that is:

(1) fifty feet wide or less; and

(2) adjacent to single-family residential lots or other multifamily residences or to undeveloped land designated for residential use by zoning or deed restrictions.

J. A wireless provider that installs a new utility pole or small wireless facility in a right of way as described in Subsection H of this section shall comply with applicable private deed restrictions and other private restrictions affecting the area.

K. A wireless provider shall notify an authority in writing of its intention to discontinue its use of a small wireless facility or utility pole. The notice shall inform the authority of the time and the way in which the wireless provider intends to remove the small wireless facility or utility pole. The wireless provider is responsible for the costs of the removal. The authority may require the wireless provider to return the property to its pre-installation condition according to the authority's reasonable and nondiscriminatory requirements and specifications. If the wireless provider does not complete the removal within forty-five days after the notice, the authority may complete the removal and assess the costs of removal against the wireless provider. The permit for the small wireless facility or utility pole expires upon removal.

## **Chapter 69 Section 4 Laws 2018**

### **SECTION 4. COLLOCATION OF A SMALL WIRELESS FACILITY--PERMITS--APPLICATION--FEE.--**

A. This section applies to a wireless provider's collocation activities within a right of way.

B. An authority may prohibit, regulate or charge for the collocation of a small wireless facility only as provided in this section and Sections 3, 6 and 7 of the Wireless Consumer Advanced Infrastructure Investment Act.

C. A small wireless facility collocated on a utility pole or wireless support structure that extends ten or fewer feet above the pole or structure in a right of way in any zone is classified as a permitted use and is not subject to zoning review or approval.

D. An authority may require an applicant to obtain one or more permits to collocate a small wireless facility in a right of way if the requirement is of general applicability to users of the right of way. An applicant seeking to collocate, within an authority's jurisdiction, up to twenty-five small wireless facilities, all of which are substantially the same type, on substantially the same types of structures may file a consolidated application for the collocation of the facilities. An applicant shall not file with an authority more than one consolidated application in any five-business-day period. The applicant shall include in a consolidated application an attestation that, unless a delay in collocation is caused by the lack of commercial power or fiber at the site, the collocation will begin within one hundred eighty days after the permit issuance date. The authority and the provider may subsequently agree to extend that period.

E. An authority shall:

(1) without bias, accept and process applications and issue permits to collocate small wireless facilities;

(2) within thirty days after receiving an application, determine and notify the applicant of whether the application is complete and:

(a) for an incomplete application, specifically identify the information missing from it; and

(b) deem the application complete if the applicant is not notified within the thirty-day period;

(3) within ninety days after receiving a completed application, approve or deny it and deem the application approved if that approval or denial is not given within the ninety-day period. The authority may request an extension of the ninety-day period, and the authority and applicant may agree to extend that period. An applicant shall not unreasonably deny an authority's request to extend the period;

(4) approve a completed application unless the application does not conform with:

(a) applicable codes or local laws concerning: 1) public safety; 2) design for utility poles, but only to the extent that the standards the codes or laws impose are objective; 3) stealth and concealment, but only to the extent that the restrictions the codes or laws impose are reasonable; and 4) the spacing of ground-mounted equipment in a right of way; and

(b) requirements imposed by the authority in accordance with Subsection H of Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act; and

(5) if it denies an application, document the basis for the denial, including the specific code or law on which the denial was based, and send that documentation to the applicant on or before the date the application is denied.

F. In the ninety-day period after an authority receives an application to collocate a small wireless facility, the authority may:

(1) provide public notice of the application and an opportunity for written public comment on the application; and

(2) submit the written public comment to the applicant and request that the applicant respond to it.

G. If an authority determines that applicable codes or laws require that a utility pole or wireless support structure be replaced before an application for collocation is approved, the authority may condition approval of the application on that replacement. That replacement is subject to Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act.

H. An applicant whose application is denied may cure the deficiencies identified by the authority and submit a revised application within thirty days after the denial for no additional fee. The authority shall base its review of the revised application only on the deficiencies cited in the denial and shall approve or deny the revised application within thirty days after receiving it.

I. If an application is for the collocation of multiple small wireless facilities, the authority may:

(1) treat as separate those for which incomplete information has been provided, that do not qualify for consolidated treatment or that are denied; and

(2) issue separate permits for the collocations that it approves.

J. An authority shall not:

(1) directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as the making of in-kind contributions to the authority of reserving fiber, conduit or pole space on the wireless provider's utility pole;

(2) require an applicant to provide more information to obtain a permit than the authority requires of a communications service provider that is not a wireless provider and that requests a permit to attach facilities to a structure; however, the authority may require the applicant to certify that the small wireless facilities to be collocated conform with the federal communications commission's regulations concerning radio frequency emissions;

(3) institute, either expressly or de facto, a moratorium on the acceptance or processing of applications or on the issuance of permits or other approvals, if any, for the collocation of small wireless facilities; or

(4) except as otherwise provided in Subsection K of this section, require an application, approval or permit or impose a fee, rate or other charge for:

(a) the routine maintenance of a small wireless facility;

(b) the replacement of a small wireless facility with one that is substantially similar in size to, the same size as or smaller than it, as long as the wireless provider that owns the wireless facility notifies the authority of the replacement at least ten days before the replacement; or

(c) the installation, maintenance, operation, placement or replacement of a micro wireless facility that is, in accordance with applicable codes, suspended on cables strung between utility poles or wireless structures. As used in this subparagraph, "micro wireless facility" means a small wireless facility less than twenty-

four inches long, fifteen inches wide and twelve inches high whose exterior antenna, if any, is less than eleven inches long.

K. An authority may require a permit to engage, within rights of way, in activities that are identified in Paragraph (4) of Subsection J of this section and that affect traffic patterns or require lane closures.

L. The collocation for which a permit is issued shall begin within one hundred eighty days after the permit issuance date, unless the authority and the wireless provider agree to extend that period or a delay in collocation is caused by the lack of commercial power or fiber at the site. The permit gives the wireless provider the right to:

(1) collocate the small wireless facility; and

(2) subject to applicable relocation requirements, the requirements imposed on the authority by Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act and to the wireless provider's right to terminate collocation at any time:

(a) operate and maintain the small wireless facility for at least ten years; and

(b) renew the permit for the same period, unless the authority finds that the small wireless facility does not conform with the applicable codes and local laws set forth in Paragraph (4) of Subsection E of this section.

M. An authority may charge an applicant an application fee in the amount of one hundred dollars (\$100) or less for each of up to five small wireless facilities and fifty dollars (\$50.00) or less for each additional small wireless facility whose collocation is requested in a single application.

N. The approval of an application under the Wireless Consumer Advanced Infrastructure Investment Act does not authorize the provision of a service or authorize the installation, placement, maintenance or operation of a wireline backhaul facility in a right of way.

O. The Wireless Consumer Advanced Infrastructure Investment Act shall not be deemed to allow a person, without the consent of the property owner, to collocate a small wireless facility on a privately owned utility pole, a privately owned wireless support structure or private property.

## **Chapter 69 Section 5 Laws 2018**

SECTION 5. INSTALLATION, REPLACEMENT OR MODIFICATION OF A UTILITY POLE--PERMITS--APPLICATION--FEE.--

A. This section applies to the activities of a wireless provider in installing a new, replacement or modified utility pole associated with the collocation of a small wireless facility in a right of way.

B. A new, replacement or modified utility pole associated with the collocation of a small wireless facility and installed in a right of way is not subject to zoning review and approval, except for that which pertains to the under-grounding prohibitions described in Subparagraph (c) of Paragraph (1) of Subsection C of this section, unless the utility pole, as measured from the ground level, is higher than whichever of the following is greater:

(1) ten feet plus the height in feet of the tallest existing utility pole, other than a utility pole supporting only one or more wireless facilities, that is:

(a) in place on the effective date of the Wireless Consumer Advanced Infrastructure Investment Act;

(b) located within five hundred feet of the new, replacement or modified utility pole;

(c) in the same right of way and within the jurisdictional boundary of the authority; and

(d) fifty or fewer feet above ground level; or

(2) fifty feet.

C. An authority may require an application for the installation of a new, replacement or modified utility pole associated with the collocation of a small wireless facility in a right of way. An authority shall approve such an application unless the authority finds that the installation of the utility pole does not conform with:

(1) applicable codes or local laws concerning:

(a) public safety;

(b) design for utility poles, but only to the extent that the standards the codes or laws impose are objective; and

(c) under-grounding prohibitions on the installation of new, or the modification of existing, utility poles in a right of way without prior approval, if those regulations: 1) require that all cable and public utility facilities be placed underground by a date certain within one year after the application; 2) include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles; and 3) allow the replacement of utility poles;

(2) the federal Americans with Disabilities Act of 1990 or similar federal or state standards for pedestrian access or movement;

(3) requirements imposed by the authority in accordance with Subsection H of Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act;

(4) requirements imposed by contract between an authority and a private property owner concerning the design of utility poles in the right of way; or

(5) the authority's laws concerning public safety and imposing minimum spacing requirements, if reasonable, for new utility poles in rights of way.

D. An authority shall process an application for a permit to install a new, replacement or modified utility pole associated with the collocation of a small wireless facility within one hundred fifty days after receiving the application. If the authority fails to approve or deny the application within that period, the authority shall deem the application approved. The application fee, if any, imposed by the authority for such an application shall conform with the requirements of Subsection M of Section 4 of the Wireless Consumer Advanced Infrastructure Investment Act and shall not exceed seven hundred fifty dollars (\$750).

E. The installation, modification or replacement for which a permit is issued under this section shall begin within one hundred eighty days after the permit issuance date, unless the authority and wireless provider agree to extend that period or a delay in the installation, modification or replacement is caused by the lack of commercial power or fiber at the site. The permit gives the wireless provider the right to:

(1) undertake the requested deployment; and

(2) subject to applicable relocation requirements, to the requirements imposed on the authority by this section and to the provider's right to terminate the installation at any time:

(a) operate and maintain the new, modified or replacement utility pole for a period of at least ten years; and

(b) renew the permit for that same period, unless the authority finds that the new or modified utility pole does not conform with the restrictions set forth in Subsection C of this section.

## **Chapter 69 Section 6 Laws 2018**

SECTION 6. ACCESS TO AUTHORITY UTILITY POLES--RATES AND FEES--COLLOCATIONS FOR OTHER COMMERCIAL PROJECTS OR USES.--

A. An authority shall not enter into an exclusive agreement with a person for the right to attach a small wireless facility to an authority utility pole.

B. The rates and fees an authority imposes for the collocation of a small wireless facility on an authority utility pole shall not vary according to the services provided by the collocating person.

C. The rate to collocate a small wireless facility on an authority utility pole shall not exceed twenty dollars (\$20.00) per utility pole per year.

D. An authority shall process an application for a permit to collocate a small wireless facility on an authority utility pole in accordance with Section 4 of the Wireless Consumer Advanced Infrastructure Investment Act. The authority may condition the issuance of the permit on the wireless provider's replacement of the authority utility pole if the authority determines that applicable codes or local laws concerning public safety require that replacement. The authority shall process an application for a permit to install a replacement authority utility pole in accordance with Section 5 of the Wireless Consumer Advanced Infrastructure Investment Act. The authority shall retain ownership of the replacement utility pole.

E. An authority may prohibit, regulate and charge for the collocation of a small wireless facility on a wireless support structure owned by the authority.

## **Chapter 69 Section 7 Laws 2018**

### **SECTION 7. ESTABLISHMENT OF RATES, FEES AND TERMS--EXTENSION OF TERM TO FULFILL DUTIES.--**

A. An authority may adopt an ordinance setting forth the rates, fees and terms for implementing the Wireless Consumer Advanced Infrastructure Investment Act. In the absence of such an ordinance, an authority and a wireless provider may enter into an agreement setting forth those rates, fees and terms. Documents showing the rates, fees and terms agreed to by an authority and a wireless provider are public records.

B. The rates, fees and terms for a wireless provider's use of a right of way as set forth in Section 3 of the Wireless Consumer Advanced Infrastructure Investment Act and for access to authority utility poles as set forth in Section 6 of that act shall accord with that act, and the terms:

(1) shall be reasonable and nondiscriminatory;

(2) may include requirements that the authority has previously applied to other users of the right of way;



(3) may require that the wireless provider's operation of a small wireless facility in the right of way not interfere with the authority's public safety communications;

(4) except as otherwise provided in Subsection C of Section 5 of that act, shall not:

(a) require the placement of a small wireless facility on a specific utility pole or category of poles or require multiple antenna systems on a single utility pole; or

(b) restrict the placement of small wireless facilities by imposing minimum horizontal spacing requirements; and

(5) subject to Section 9 of that act, shall provide for the reasonable accommodation of a power supply to, and electric metering of, the small wireless facility.

C. An agreement between an authority and a wireless provider in effect on the effective date of the Wireless Consumer Advanced Infrastructure Investment Act and that concerns the collocation of one or more small wireless facilities in a right of way, including that collocation on authority utility poles, remains in effect subject to applicable termination provisions. A wireless provider in such an agreement may, after they become effective, accept the rates, fees and terms established in accordance with Subsection B of this section for the small wireless facilities and utility poles that are the subject of an application.

D. If the federal government, the state or an authority declares a disaster and that disaster impedes an authority's or wireless provider's ability to fulfill the duties imposed on it by the Wireless Consumer Advanced Infrastructure Investment Act or by an ordinance adopted in accordance with this section, the term under which those duties must be fulfilled is extended for a reasonable period.

## **Chapter 69 Section 8 Laws 2018**

### **SECTION 8. SCOPE OF LOCAL AUTHORITY.--**

A. Except as otherwise provided in the Wireless Consumer Advanced Infrastructure Investment Act, an authority may exercise its zoning, land use, planning and permitting authority and its police power for the installation, modification and replacement of wireless support structures and utility poles.

B. An authority's power to control the design, engineering, construction, installation or operation of a small wireless facility in an interior structure or on the site of a campus, stadium or athletic facility not owned or controlled by the authority is limited to its authority to enforce compliance with applicable codes.

C. The Wireless Consumer Advanced Infrastructure Investment Act does not authorize the state or a political subdivision of the state to require small wireless facility deployment or to regulate wireless services.

D. If an authority determines that a utility pole or the wireless support structure of a wireless provider must be relocated to accommodate a public project, the provider shall assume the costs of relocating the wireless facilities deployed on the pole or structure.

## **Chapter 69 Section 9 Laws 2018**

SECTION 9. APPLICABILITY.--The Wireless Consumer Advanced Infrastructure Investment Act does not:

A. affect the authority, under state or federal law, of an investor-owned electric utility or electric cooperative that owns, controls or operates utility poles or wireless support structures to deny, limit, restrict or determine the rates, fees, terms and conditions for the use of, or attachment to, those poles or structures by a wireless provider;

B. confer on an authority any zoning, land use, planning, permitting or other regulatory authority over the utility poles, wireless support structures or small wireless facilities owned, controlled or operated by an investor-owned electric utility or electric cooperative or the installation of those poles, structures or facilities by an investor-owned electric utility or electric cooperative;

C. impose a duty, liability or restriction on any investor-owned electric utility or electric cooperative;

D. amend, modify or otherwise affect the provisions affecting a private easement; or

E. authorize an authority to:

(1) require of a public telecommunications company that provides telecommunications services under a certificate of public convenience and necessity issued by the state an additional grant of authority to provide those services; or

(2) discriminate against such a company in its use of rights of way.

## **Chapter 69 Section 10 Laws 2018**

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is September 1, 2018.

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SJC/Senate Bill 14

Approved March 7, 2018

## **LAWS 2018, CHAPTER 70**

AN ACT

RELATING TO THE LEGISLATIVE LOTTERY TUITION SCHOLARSHIP;  
DECOUPLING SCHOLARSHIP AWARD AMOUNTS FROM TUITION COSTS.

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

### **Chapter 70 Section 1 Laws 2018**

SECTION 1. Section 21-21N-4 NMSA 1978 (being Laws 2014, Chapter 80, Section 4, as amended) is amended to read:

"21-21N-4. TUITION SCHOLARSHIP AMOUNT--FUND.--

A. Prior to June 1 of each year, based on the amount appropriated by the legislature from the fund and on the projected enrollment at all public post-secondary educational institutions, the department shall:

(1) determine the total amount of money available for all tuition scholarships for qualified students;

(2) determine the award amount for research institutions, comprehensive institutions and community colleges; and

(3) notify all public post-secondary educational institutions of the determinations made pursuant to Paragraphs (1) and (2) of this subsection.

B. In determining distribution and award amounts for the tuition scholarship program, the department shall:

(1) maintain the minimum fund balance pursuant to Section 21-21N-5 NMSA 1978;

(2) distribute to all public post-secondary educational institutions an amount not to exceed the remaining balance in the fund; and

(3) subject to the provisions of Paragraphs (1) and (2) of this subsection, distribute to each public post-secondary educational institution an amount based on:

(a) the projected enrollment at each four-year public post-secondary educational institution of qualified students in their first through seventh program semesters, including qualified students in their fourth through seventh program semesters who transferred from community colleges;

(b) the projected enrollment at each community college of qualified students in their first through third program semesters; and

(c) an award for each scholarship recipient distributed in amounts as follows: 1) one thousand five hundred dollars (\$1,500) per scholarship per program semester for a student enrolled at a research institution; 2) one thousand twenty dollars (\$1,020) per scholarship per program semester for a student enrolled at a comprehensive institution; and 3) three hundred eighty dollars (\$380) per scholarship per program semester for a student enrolled at a community college.

C. If the total amount available pursuant to Paragraph (1) of Subsection A of this section is less than the amount calculated in Subsection B of this section, the department shall decrease the scholarship award amounts in a manner that maintains the distribution in the same proportions as provided in Subparagraph (c) of Paragraph (3) of Subsection B of this section.

D. If the total amount available pursuant to Paragraph (1) of Subsection A of this section is more than the amount calculated in Subsection B of this section, the department shall increase the scholarship award amounts in a manner that maintains the distribution in the same proportions as provided in Subparagraph (c) of Paragraph (3) of Subsection B of this section."

## **Chapter 70 Section 2 Laws 2018**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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SFC/Senate Bill 140

Approved March 7, 2018

## **LAWS 2018, CHAPTER 71**

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; ALLOWING FOR THE EXPENDITURE OF MONEY IN THE PUBLIC SCHOOL CAPITAL OUTLAY FUND FOR SCHOOL SECURITY SYSTEM PROJECTS; AUTHORIZING RECONCILIATION OF MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW.

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

## **Chapter 71 Section 1 Laws 2018**

SECTION 1. A new section of the Public School Capital Outlay Act, Section 22-24-4.7 NMSA 1978, is enacted to read:

"22-24-4.7. SCHOOL SECURITY SYSTEM PROJECTS.--

A. The council shall develop guidelines for a school security system project grant initiative in accordance with this section.

B. A school district seeking a grant for a school security system project shall apply to the council on a form that includes an assessment of a school's security system and a statement of opinion by the school district that the project would improve the security of the school's buildings, property and occupants.

C. The public school facilities authority shall verify the assessment made by the school district and rank all applications it receives for school security system project grants according to the methodology adopted by the council for that purpose.

D. After a public hearing, and to the extent that money is available in the fund for the purpose, the council shall make school security system project grants to school districts that the council determines are willing and able to pay for the portion of the total project cost not funded with grant assistance from the fund and according to those applicants' ranking.

E. The state share of the cost of an approved school security system project shall be calculated according to the methodology outlined in Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978.

F. A school district that receives a grant in accordance with this section shall expend the grant money within three years after the grant allocation. Money not spent in that time shall revert to the fund."

## **Chapter 71 Section 2 Laws 2018**

SECTION 2. 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 roofing, electrical distribution, electronic communication, plumbing, lighting, mechanical, fire prevention,

facility shell, interior finishes, heating, ventilation and air conditioning systems and school security 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 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 71 Section 3 Laws 2018**

SECTION 3. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended) is amended to read:

"22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--USE.--

A. The "public school capital outlay fund" is created. Balances remaining in the fund at the end of each fiscal year shall not revert.

B. Except as provided in Subsections G and I through O of this section, money in the fund may be used only for capital expenditures deemed necessary by the council for an adequate educational program.

C. The council may authorize the purchase by the 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 to 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. The fund may be expended by the council for building system repair, renovation or replacement initiatives with projects to be identified by the council pursuant to Section 22-24-4.6 NMSA 1978; provided that money allocated pursuant to this subsection shall be expended within three years of the allocation.

I. The fund may be expended annually by the council for grants to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools. The grants shall be made upon application by the school districts and pursuant to rules adopted by the council; provided that an application on behalf of a charter school shall be made by the school district, but, if the school district fails to make an application on behalf of a charter school, the charter school may submit its own application. The following criteria shall apply to the grants:

(1) the amount of a grant to a school district shall not exceed:

(a) the actual annual lease payments owed for leasing classroom space for schools, including charter schools, in the school district; or

(b) seven hundred dollars (\$700) multiplied by the MEM using the leased classroom facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage change between the penultimate calendar year and the immediately preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor;

(2) a grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants pursuant to the federal 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 second and third reporting dates of the prior school year; or 2) in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased classroom facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the 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 second and third reporting dates of the prior school year; or

(b) the school district meets all of the following requirements: 1) the school district has fewer than an average of one thousand full-time-equivalent students on the second and third reporting dates of the prior school year; 2) the school district has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) the state share of the total cost, if calculated pursuant to the methodology in 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 in each of 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.

N. For each fiscal year from 2018 through 2022, twenty-five million dollars (\$25,000,000) of the public school capital outlay fund is reserved for appropriation by the legislature to the instructional material fund or to the transportation distribution of the public school fund. The secretary shall certify the need for the issuance of supplemental severance tax bonds to meet an appropriation from the public school capital outlay fund to the instructional material fund or to the transportation distribution of the public school

fund. Any portion of an amount of the public school capital outlay fund that is reserved for appropriation by the legislature for a fiscal year, but that is not appropriated before the first day of that fiscal year, may be expended by the council as provided in this section.

O. Up to ten million dollars (\$10,000,000) of the fund may be expended in each of fiscal years 2019 through 2022 for school security system project grants made in accordance with Section 22-24-4.7 NMSA 1978."

## **Chapter 71 Section 4 Laws 2018**

SECTION 4. TEMPORARY PROVISION--COMPILATION INSTRUCTION--RECONCILIATION.--If acts making amendments to Section 22-24-4 NMSA 1978 are enacted by the first and second sessions of the fifty-third legislature, the provisions of those acts shall be reconciled and compiled in accordance with the provisions of Section 12-1-8 NMSA 1978, notwithstanding that the amendments were not made in the same session of the legislature.

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Senate Bill 239, aa

Approved March 7, 2018

## **LAWS 2018, CHAPTER 72**

AN ACT

RELATING TO SCHOOL PERSONNEL; INCREASING STATUTORY MINIMUM SALARIES FOR LEVEL ONE, LEVEL TWO AND LEVEL THREE-A TEACHERS.

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

## **Chapter 72 Section 1 Laws 2018**

SECTION 1. Section 22-10A-7 NMSA 1978 (being Laws 2003, Chapter 153, Section 38, as amended) is amended to read:

"22-10A-7. LEVEL ONE LICENSURE.--

A. A level one license is a provisional five-year license for beginning teachers that requires as a condition of licensure that the licensee undergo a formal mentorship program for at least one full school year and an annual intensive performance evaluation by a school administrator for at least three full school years before applying for a level two license.

B. Each school district, in accordance with department rules, shall provide for the mentorship and evaluation of level one teachers. At the end of each year and at the end of the license period, the level one teacher shall be evaluated for competency. If the teacher fails to demonstrate satisfactory progress and competence annually, the teacher may be terminated as provided in Section 22-10A-24 NMSA 1978. If the teacher has not demonstrated satisfactory progress and competence by the end of the five-year period, the teacher shall not be granted a level two license.

C. Except in exigent circumstances defined by department rule, a level one license shall not be extended beyond the initial period.

D. The department shall issue a standard level one license to an applicant who is at least eighteen years of age who:

(1) holds a baccalaureate degree from an accredited educational institution;

(2) has successfully completed a department-approved teacher preparation program from a nationally accredited or state-approved educational institution;

(3) has passed the New Mexico teacher assessments examination, including for elementary licensure beginning January 1, 2013, a rigorous assessment of the candidate's knowledge of the science of teaching reading; and

(4) meets other qualifications for level one licensure, including clearance of the required background check.

E. The department shall issue an alternative level one license to an applicant who meets the requirements of Section 22-10A-8 NMSA 1978.

F. The department shall establish competencies and qualifications for specific grade levels, types and subject areas of level one licensure, including early childhood, elementary, middle school, secondary, special and vocational education.

G. With the adoption by the department of a highly objective uniform statewide standard of evaluation for level one teachers, the minimum salary for a level one teacher shall be thirty-six thousand dollars (\$36,000) for a standard nine and one-half month contract."

## **Chapter 72 Section 2 Laws 2018**

SECTION 2. Section 22-10A-10 NMSA 1978 (being Laws 2003, Chapter 153, Section 41, as amended by Laws 2005, Chapter 315, Section 7 and by Laws 2005, Chapter 316, Section 4) is amended to read:

## "22-10A-10. LEVEL TWO LICENSURE.--

A. A level two license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates essential competency to teach. If a level two teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall issue a level two license to an applicant who successfully completes the level one license or is granted reciprocity as provided by department rules; demonstrates essential competency required by the department as verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications as required by the department.

C. The department shall provide for qualifications for specific grade levels, types and subject areas of level two licensure, including early childhood, elementary, middle, secondary, special and vocational education.

D. With the adoption by the department of the statewide objective performance evaluation for level two teachers, the minimum salary for a level two teacher for a standard nine and one-half month contract shall be forty-four thousand dollars (\$44,000)."

## **Chapter 72 Section 3 Laws 2018**

SECTION 3. Section 22-10A-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 42, as amended by Laws 2015, Chapter 74, Section 1 and by Laws 2015, Chapter 103, Section 1) 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-four thousand dollars (\$54,000).

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."

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Senate Bill 119, aa

Approved March 7, 2018

## **LAWS 2018, CHAPTER 73**

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 73 Section 1 Laws 2018**

Section 1. SHORT TITLE.--This act may be cited as the "General Appropriation Act of 2018".

### **Chapter 73 Section 2 Laws 2018**

Section 2. DEFINITIONS.--As used in the General Appropriation Act of 2018:

A. "agency" means an office, department, agency, institution, board, bureau, commission, court, district attorney, council or committee of state government;

B. "efficiency" means the measure of the degree to which services are efficient and productive and is often expressed in terms of dollars or time per unit of output;

C. “explanatory” means information that can help users to understand reported performance measures and to evaluate the significance of underlying factors that may have affected the reported information;

D. “federal funds” means any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Leasing Act;

E. “full-time equivalent” means one or more authorized positions that alone or together receives or receive compensation for not more than two thousand eighty hours worked in fiscal year 2019. 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 2018;

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 2018;

(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 73 Section 3 Laws 2018**

### 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 2018, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 2019 for the objects expressed.

D. Unexpended balances in agency accounts remaining at the end of fiscal year 2018 shall revert to the general fund by October 1, 2018 unless otherwise indicated in the General Appropriation Act of 2018 or otherwise provided by law.

E. Unexpended balances in agency accounts remaining at the end of fiscal year 2019 shall revert to the general fund by October 1, 2019 unless otherwise indicated in the General Appropriation Act of 2018 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 2018, appropriations are made in this act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 2019. If any other act of the second session of the fifty-third 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 2018 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 2019 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 2018 may be expended for payment of agency-issued credit card invoices.

K. For the purpose of administering the General Appropriation Act of 2018, 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 73 Section 4 Laws 2018

### Section 4. FISCAL YEAR 2019 APPROPRIATIONS.--

|      | Other   | Intrnl Svc |              |         |              |  |
|------|---------|------------|--------------|---------|--------------|--|
|      | General | State      | Funds/Inter- | Federal |              |  |
| Item | Fund    | Funds      | Agency Trnsf | Funds   | Total/Target |  |

**A. LEGISLATIVE**

**LEGISLATIVE COUNCIL SERVICE:**

(1) Legislative building services:

Appropriations:

|     |  |         |         |
|-----|--|---------|---------|
| (a) | Personal services and<br>employee benefits | 2,847.2 | 2,847.2 |
| (b) | Contractual services                       | 111.6   | 111.6   |
| (c) | Other                                      | 1,158.9 | 1,158.9 |
|     | Subtotal                                   | 4,117.7 |         |

TOTAL LEGISLATIVE      4,117.7                              4,117.7

**B. JUDICIAL**

**NEW MEXICO COMPILATION COMMISSION:**

The purpose of the New Mexico compilation commission is to publish in print and electronic format, distribute and sell (1) laws enacted by the legislature, (2) opinions of the supreme court and court of appeals, (3) rules approved by the supreme court, (4) attorney general opinions and (5) other state and federal rules and opinions. The commission ensures the accuracy and reliability of its publications.

Appropriations:

|     |            |         |         |         |
|-----|------------|---------|---------|---------|
| (a) | Operations | 1,452.5 | 400.0   | 1,852.5 |
|     | Subtotal   |         | 1,852.5 |         |

**JUDICIAL STANDARDS COMMISSION:**

The purpose of the judicial standards commission program is to provide a public review process addressing complaints involving judicial misconduct to preserve the integrity and impartiality of the judicial process.

Appropriations:

|     |            |       |       |
|-----|------------|-------|-------|
| (a) | Operations | 822.3 | 822.3 |
|     | Subtotal   |       | 822.3 |

## COURT OF APPEALS:

The purpose of the court of appeals is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

### Appropriations:

|                |         |     |         |
|----------------|---------|-----|---------|
| (a) Operations | 5,852.7 | 1.0 | 5,853.7 |
|----------------|---------|-----|---------|

### Performance measures:

|             |  |      |
|-------------|--|------|
| (a) Output: | Cases disposed as a percent of cases filed | 100% |
|-------------|--|------|

|          |         |
|----------|---------|
| Subtotal | 5,853.7 |
|----------|---------|

## SUPREME COURT:

The purpose of the supreme court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

### Appropriations:

|                |         |     |         |
|----------------|---------|-----|---------|
| (a) Operations | 5,906.5 | 1.5 | 5,908.0 |
|----------------|---------|-----|---------|

Notwithstanding the provisions of Sections 35-8-7 and 38-5-15 NMSA 1978, the supreme court has the authority to reduce juror pay as needed to stay within the appropriation for the jury and witness fee fund.

The general fund appropriation to the supreme court includes sufficient funding to support the operations of the supreme court building commission and the supreme court law library.

### Performance measures:

|                  |  |
|------------------|--|
| (a) Explanatory: | Cases disposed as a percent of cases filed |
|------------------|--|

|          |         |
|----------|---------|
| Subtotal | 5,908.0 |
|----------|---------|

## 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 they can effectively administer the New Mexico court system.

### Appropriations:

|     |  |         |         |       |               |
|-----|--|---------|---------|-------|---------------|
| (a) | Personal services and<br>employee benefits | 4,182.0 |         | 182.0 | 4,364.0       |
| (b) | Contractual services                       | 420.0   | 104.9   | 288.4 | 595.1 1,408.4 |
| (c) | Other                                      | 5,440.3 | 2,020.1 | 22.5  | 52.5 7,535.4  |

Performance measures:

|                 |                        |      |
|-----------------|------------------------|------|
| (a) Efficiency: | Average cost per juror | \$55 |
|-----------------|------------------------|------|

(2) Statewide judiciary automation:

The purpose of the statewide judiciary 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<br>employee benefits | 4,302.9 | 1,549.7 | 5,852.6 |
| (b) | Contractual services                       |         | 965.0   | 965.0   |
| (c) | Other                                      | 2,692.8 | 2,692.8 |         |

(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<br>employee benefits | 18,455.7 | 2,951.5 | 300.0 | 21,707.2 |
| (b) | Contractual services                       | 429.0    | 76.2    |       | 505.2    |
| (c) | Other                                      | 9,792.6  | 423.8   |       | 10,216.4 |

The internal service funds/interagency transfers appropriation to the magistrate court program of the administrative office of the courts includes three hundred thousand dollars (\$300,000) from the local DWI

grant fund. Any unexpended balances from appropriations made from the local DWI grant fund remaining at the end of fiscal year 2019 shall revert to the local DWI grant fund.

Performance measures:

(a) Output: Cases disposed as a percent of cases filed 100%

(4) Special court services:

The purpose of the special court services program is to provide court advocates, legal counsel and safe exchanges for children and families; to provide judges pro tem; and to adjudicate water rights disputes so the constitutional rights and safety of citizens, especially children and families, are protected.

Appropriations:

|     |                           |         |         |         |
|-----|---------------------------|---------|---------|---------|
| (a) | Court-appointed special   |         |         |         |
|     | advocate                  | 1,356.7 |         | 1,356.7 |
| (b) | Supervised visitation     | 881.1   |         | 881.1   |
| (c) | Water rights              | 142.5   | 300.7   | 443.2   |
| (d) | Court-appointed attorneys | 6,037.1 |         | 6,037.1 |
| (e) | Children's mediation      | 276.4   |         | 276.4   |
| (f) | Judges pro tem            | 30.3    |         | 30.3    |
| (g) | Access to justice         | 124.7   |         | 124.7   |
| (h) | Statewide alternative     |         |         |         |
|     | dispute resolution        | 3.3     |         | 3.3     |
| (i) | Drug court                | 1,484.6 | 1,300.0 | 2,784.6 |

The internal service funds/interagency transfers appropriations to the special court services program of the administrative office of the courts include one million three hundred thousand dollars (\$1,300,000) 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 2019 shall revert to the local DWI grant fund.

Performance measures:

(a) Outcome: Statewide recidivism rate for drug-court participants 12%

(b) Outcome: Statewide recidivism rate for

|  |          |
|--|----------|
| driving-while-intoxicated-court participants | 12%      |
| Subtotal                                     | 67,184.4 |

**DISTRICT COURTS:**

(1) First judicial district:

The purpose of the first judicial district court program, statutorily created in Santa Fe, Rio Arriba and Los Alamos counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|                |         |       |       |         |
|----------------|---------|-------|-------|---------|
| (a) Operations | 7,116.8 | 464.4 | 648.3 | 8,229.5 |
|----------------|---------|-------|-------|---------|

(2) Second judicial district:

The purpose of the second judicial district court program, statutorily created in Bernalillo county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|                |          |         |         |       |          |
|----------------|----------|---------|---------|-------|----------|
| (a) Operations | 23,057.9 | 2,990.3 | 1,290.3 | 414.9 | 27,753.4 |
|----------------|----------|---------|---------|-------|----------|

(3) Third judicial district:

The purpose of the third judicial district court program, statutorily created in Dona Ana county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|                |         |       |       |         |
|----------------|---------|-------|-------|---------|
| (a) Operations | 6,635.4 | 222.7 | 816.1 | 7,674.2 |
|----------------|---------|-------|-------|---------|

(4) Fourth judicial district:

The purpose of the fourth judicial district court program, statutorily created in Mora, San Miguel and Guadalupe counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|                |         |      |       |         |
|----------------|---------|------|-------|---------|
| (a) Operations | 2,331.3 | 35.0 | 156.5 | 2,522.8 |
|----------------|---------|------|-------|---------|

(5) Fifth judicial district:

The purpose of the fifth judicial district court program, statutorily created in Eddy, Chaves and Lea counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |         |       |       |         |
|-----|------------|---------|-------|-------|---------|
| (a) | Operations | 6,657.7 | 188.0 | 497.6 | 7,343.3 |
|-----|------------|---------|-------|-------|---------|

(6) Sixth judicial district:

The purpose of the sixth judicial district court program, statutorily created in Grant, Luna and Hidalgo counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |         |      |       |         |
|-----|------------|---------|------|-------|---------|
| (a) | Operations | 3,266.4 | 45.0 | 229.2 | 3,540.6 |
|-----|------------|---------|------|-------|---------|

(7) Seventh judicial district:

The purpose of the seventh judicial district court program, statutorily created in Torrance, Socorro, Catron and Sierra counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |         |      |       |         |
|-----|------------|---------|------|-------|---------|
| (a) | Operations | 2,380.1 | 40.0 | 400.6 | 2,820.7 |
|-----|------------|---------|------|-------|---------|

(8) Eighth judicial district:

The purpose of the eighth judicial district court program, statutorily created in Taos, Colfax and Union counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |         |       |       |         |
|-----|------------|---------|-------|-------|---------|
| (a) | Operations | 3,043.9 | 139.7 | 170.6 | 3,354.2 |
|-----|------------|---------|-------|-------|---------|

(9) Ninth judicial district:

The purpose of the ninth judicial district court program, statutorily created in Curry and Roosevelt counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |         |      |       |         |
|-----|------------|---------|------|-------|---------|
| (a) | Operations | 3,430.2 | 72.4 | 698.8 | 4,201.4 |
|-----|------------|---------|------|-------|---------|

(10) Tenth judicial district:

The purpose of the tenth judicial district court program, statutorily created in Quay, De Baca and Harding counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |       |      |  |       |
|-----|------------|-------|------|--|-------|
| (a) | Operations | 950.7 | 44.8 |  | 995.5 |
|-----|------------|-------|------|--|-------|

(11) Eleventh judicial district:

The purpose of the eleventh judicial district court program, statutorily created in San Juan and McKinley counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |         |       |       |         |
|-----|------------|---------|-------|-------|---------|
| (a) | Operations | 6,471.1 | 149.0 | 712.4 | 7,332.5 |
|-----|------------|---------|-------|-------|---------|

(12) Twelfth judicial district:

The purpose of the twelfth judicial district court program, statutorily created in Otero and Lincoln counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |         |       |       |         |
|-----|------------|---------|-------|-------|---------|
| (a) | Operations | 3,430.1 | 133.7 | 118.1 | 3,681.9 |
|-----|------------|---------|-------|-------|---------|

(13) Thirteenth judicial district:

The purpose of the thirteenth judicial district court program, statutorily created in Valencia, Sandoval and Cibola counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

|     |            |         |       |       |         |
|-----|------------|---------|-------|-------|---------|
| (a) | Operations | 7,219.1 | 475.9 | 686.1 | 8,381.1 |
|-----|------------|---------|-------|-------|---------|

|  |          |  |  |          |  |
|--|----------|--|--|----------|--|
|  | Subtotal |  |  | 87,831.1 |  |
|--|----------|--|--|----------|--|



**BERNALILLO COUNTY METROPOLITAN COURT:**

The purpose of the Bernalillo county metropolitan court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations 23,253.4 2,339.2 459.5 457.4 26,509.5

Performance measures:

(a) Output: Cases disposed as a percent of cases filed 100%

Subtotal 26,509.5

**DISTRICT ATTORNEYS:**

(1) First judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Santa Fe, Rio Arriba and Los Alamos counties.

Appropriations:

(a) Personal services and employee benefits 5,111.1 183.5 120.1 5,414.7  
(b) Contractual services 22.8 22.8  
(c) Other 403.0 403.0

~~[Performance measures:~~

~~(a) Efficiency: Average attorney caseload 280~~

~~(b) Explanatory: Number of cases referred for screening] LINE-ITEM VETO~~

(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<br>employee benefits | 19,275.3 | 562.5 | 458.3   | 186.9 | 20,483.0 |
| (b) Contractual services                       | 251.2    |       |         |       | 251.2    |
| (c) Other                                      | 1,872.0  |       | 1,872.0 |       |          |

~~[The internal service funds/interagency transfers appropriation to the second judicial district attorney includes three hundred thousand dollars (\$300,000) from the department of transportation for driving-while-intoxicated case prosecution.]~~

~~Performance measures:~~

~~(a) Efficiency: Average attorney caseload 230~~

~~(b) Explanatory: Number of cases referred for screening] LINE-ITEM VETO~~

(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<br>employee benefits | 4,577.4 | 53.5 | 168.4 | 417.6 | 5,216.9 |
| (b) Contractual services                       | 18.8    |      |       |       | 18.8    |
| (c) Other                                      | 268.9   |      | 268.9 |       |         |

~~[Performance measures:~~

~~(a) Explanatory: Number of cases referred for screening~~

~~(b) Efficiency: Average attorney caseload 250]~~

*LINE-ITEM VETO*

(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<br>employee benefits | 3,060.2 |       | 3,060.2 |
| (b) | Contractual services                       | 29.3    |       | 29.3    |
| (c) | Other                                      | 158.4   | 158.4 |         |

~~[Performance measures:~~

~~(a) Explanatory: — Number of cases referred for screening~~

~~(b) Efficiency: — Average attorney caseload 230]~~

*LINE-ITEM VETO*

(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<br>employee benefits | 4,872.4 | 128.3 198.0 | 5,198.7 |
| (b) | Contractual services                       | 25.6    |             | 25.6    |
| (c) | Other                                      | 239.4   | 239.4       |         |

~~[Performance measures:~~

~~(a) Efficiency: — Average attorney caseload 280~~

~~(b) Explanatory: — Number of cases referred for screening] *LINE-ITEM VETO*~~

(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     | 2,747.6 | 93.4  | 93.6 | 2,934.6 |
| (b) | Contractual services  | 19.3    |       |      | 19.3    |
| (c) | Other                 | 184.6   | 184.6 |      |         |

~~[Performance measures:~~

~~(a) Efficiency: Average attorney caseload 210~~

~~(b) Explanatory: Number of cases referred for screening] LINE-ITEM VETO~~

(7) Seventh judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Catron, Sierra, Socorro and Torrance counties.

Appropriations:

|     |                       |         |       |  |         |
|-----|-----------------------|---------|-------|--|---------|
| (a) | Personal services and |         |       |  |         |
|     | employee benefits     | 2,382.1 |       |  | 2,382.1 |
| (b) | Contractual services  | 14.2    |       |  | 14.2    |
| (c) | Other                 | 151.1   | 151.1 |  |         |

~~[Performance measures:~~

~~(a) Efficiency: Average attorney caseload 150~~

~~(b) Explanatory: Number of cases referred for screening] LINE-ITEM VETO~~

(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    | 2,627.1 | 2,627.1 |
| (b) | Contractual services | 16.8    | 16.8    |
| (c) | Other                | 140.1   | 140.1   |

~~[Performance measures:~~

~~(a) Explanatory: Number of cases referred for screening~~

~~(b) Efficiency: Average attorney caseload 210]~~

*LINE-ITEM VETO*

(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     | 2,973.7 | 2,973.7 |
| (b) | Contractual services  | 21.8    | 21.8    |
| (c) | Other                 | 132.9   | 132.9   |

~~[Performance measures:~~

~~(a) Explanatory: Number of cases referred for screening~~

~~(b) Efficiency: Average attorney caseload 350]~~

*LINE-ITEM VETO*

(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    | 1,167.4 |       | 1,167.4 |
| (b) | Contractual services | 15.9    |       | 15.9    |
| (c) | Other                | 112.0   | 112.0 |         |

~~[Performance measures:~~

~~(a) Efficiency: Average attorney caseload 350~~

~~(b) Explanatory: Number of cases referred for screening] LINE-ITEM VETO~~

(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     | 3,807.5 | 134.2 111.7 | 4,053.4 |
| (b) | Contractual services  | 40.7    |             | 40.7    |
| (c) | Other                 | 222.8   | 3.5 0.9     | 227.2   |

~~[Performance measures:~~

~~(a) Explanatory: Number of cases referred for screening~~

~~(b) Efficiency: Average attorney caseload 250]~~

*LINE-ITEM VETO*

(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     | 2,196.0 | 99.0 | 2,295.0 |

|     |                      |       |       |      |
|-----|----------------------|-------|-------|------|
| (b) | Contractual services | 14.9  |       | 14.9 |
| (c) | Other                | 145.5 | 145.5 |      |

~~[Performance measures:~~

~~(a) Efficiency: Average attorney caseload 300~~

~~(b) Explanatory: Number of cases referred for screening] LINE-ITEM VETO~~

(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<br>employee benefits | 2,903.4 | 159.2 124.3 | 3,186.9 |
| (b) | Contractual services                       | 44.6    |             | 44.6    |
| (c) | Other                                      | 205.3   | 205.3       |         |

~~[Performance measures:~~

~~(a) Efficiency: Average attorney caseload 250~~

~~(b) Explanatory: Number of cases referred for screening] LINE-ITEM VETO~~

(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<br>employee benefits | 4,680.0 | 138.7 | 4,818.7 |
| (b) | Contractual services                       | 96.8    | 5.0   | 101.8   |
| (c) | Other                                      | 417.9   | 4.0   | 421.9   |

[Performance measures:

(a) Efficiency: ~~\_\_\_\_\_ Average attorney caseload~~ 190

(b) Explanatory: ~~\_\_\_\_\_ Number of cases referred for screening]~~ *LINE-ITEM VETO*

Subtotal 71,112.4

**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     | 1,265.6 | 106.4 | 1,372.0 |
| (b) | Contractual services  | 280.4   | 16.9  | 297.3   |
| (c) | Other                 | 715.2   | 137.7 | 852.9   |
|     | Subtotal              |         |       | 2,522.2 |

**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     | 31,324.5 |       | 31,324.5 |
| (b) | Contractual services  | 13,815.2 | 75.0  | 13,890.2 |
| (c) | Other                 | 5,292.3  | 200.0 | 5,492.3  |



The public defender department shall not expend more than one million dollars (\$1,000,000) in hourly rates for contract attorneys and may only pay hourly rates for capital cases or first degree felonies. The public defender department shall report to the legislative finance committee on cost-containment efforts for contracted hourly rates and on standards of indigence and court appointments of public defenders.

Performance measures:

(a) Quality: Percent of felony cases resulting in a reduction of

original formally filed charges 70%

Subtotal 50,707.0

TOTAL JUDICIAL 285,403.3 21,120.3 10,824.5 2,955.0 320,303.1

**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 9,163.4 917.4 5,668.0 392.9 16,141.7

(b) Contractual services 777.0 18.9 795.9

(c) Other 2,490.0 75.4 286.2 2,851.6

The internal service funds/interagency transfers appropriations to the legal services program of the attorney general include four million seven hundred forty-three thousand four hundred dollars (\$4,743,400) from the consumer settlement fund of the attorney general's office. Any unexpended balance in the legal services program of the attorney general remaining at the end of fiscal year 2019 from appropriations made from the consumer settlement fund shall revert to the consumer settlement fund.

Notwithstanding the provisions of Section 9-16-15 NMSA 1978, the internal service funds/interagency transfers appropriations to the legal services program of the attorney general include one million dollars (\$1,000,000) from the mortgage regulatory fund of the regulation and licensing department. Any unexpended balance from appropriations made from the mortgage regulatory fund shall revert to the mortgage regulatory fund.

~~[The general fund appropriations to the legal services program of the attorney general include one hundred thousand dollars (\$100,000) for the treaty of Guadalupe Hidalgo land grant division.] LINE-ITEM VETO~~

Performance measures:

(a) Outcome: Percent of consumer and constituent complaints resolved

within sixty days of formal complaint or referral receipt 80%

(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<br>employee benefits | 571.8 | 1,713.7 | 2,285.5 |
| (b) | Contractual services                       | 41.1  | 123.4   | 164.5   |
| (c) | Other                                      | 107.1 | 323.5   | 430.6   |

Performance measures:

(a) Explanatory: Total medicaid fraud recoveries identified, in thousands of dollars

Subtotal 22,669.8

### STATE AUDITOR:

The purpose of the state auditor program is to audit the financial affairs of every state 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<br>employee benefits | 2,271.3 | 680.2 | 2,951.5 |
| (b) | Contractual services                       | 47.0    |       | 47.0    |
| (c) | Other                                      | 372.1   | 74.8  | 446.9   |

Performance measures:

(a) Explanatory: Percent of audits completed by regulatory due date

~~[(b) Outcome: Percent of statutory reviews of audit reports completed  
within ten days 90%]~~

*LINE-ITEM VETO*

Subtotal 3,445.4

**TAXATION AND REVENUE DEPARTMENT:**

(1) Tax administration:

The purpose of the tax administration program is to provide registration and licensure requirements for tax programs and to ensure the administration, collection and compliance of state taxes and fees that provide funding for support services for the general public through appropriations.

Appropriations:

(a) Personal services and

|                   |          |         |         |
|-------------------|----------|---------|---------|
| employee benefits | 17,052.9 | 5,923.0 | 1,298.3 |
| 24,274.2          |          |         |         |

|                          |       |      |      |       |
|--------------------------|-------|------|------|-------|
| (b) Contractual services | 175.1 | 48.3 | 13.0 | 236.4 |
|--------------------------|-------|------|------|-------|

|           |         |       |       |         |
|-----------|---------|-------|-------|---------|
| (c) Other | 4,650.1 | 487.8 | 195.5 | 5,333.4 |
|-----------|---------|-------|-------|---------|

Performance measures:

(a) Outcome: Collections as a percent of collectible outstanding

balances from the end of the prior fiscal year 28%

(b) Outcome: Collections as a percent of collectible audit assessments

generated in the current fiscal year plus assessments

generated in the last quarter of the prior fiscal year 65%

~~[(c) Explanatory: Number of personal income tax returns flagged as  
questionable]~~

~~(d) Explanatory: Percent of credit requests denied of total credit requests received~~

~~(e) Explanatory: Number of personal income tax returns processed, in millions~~

~~(f) Explanatory: Number of questionable personal income tax returns stopped~~

~~(g) Outcome: Collections as a percent of collectible outstanding balances aged less than twenty four months — 50%]~~

*LINE-ITEM VETO*

(2) Motor vehicle:

The purpose of the motor vehicle program is to register, title and license vehicles, boats and motor vehicle dealers and to enforce operator compliance with the Motor Vehicle Code and federal regulations by conducting tests, investigations and audits.

Appropriations:

|     |   |         |         |      |          |
|-----|---|---------|---------|------|----------|
| (a) | Personal services and employee benefits | 5,921.5 | 9,342.9 | 66.4 | 15,330.8 |
| (b) | Contractual services                    | 2,086.8 | 5,464.3 |      |          |
|     |   | 7,551.1 |         |      |          |
| (c) | Other                                   | 3,641.5 | 2,058.5 | 11.6 | 5,711.6  |
| (d) | Other financing uses                    |         | 3,313.9 |      | 3,313.9  |

The other state funds appropriation to the motor vehicle program of the taxation and revenue department in the other financing uses category includes ninety-four thousand five hundred dollars (\$94,500) from the weight distance tax identification permit fund for the law enforcement program of the department of public safety and three million two hundred nineteen thousand four hundred dollars (\$3,219,400) from the weight distance tax identification permit fund for the modal program of the department of transportation.

Performance measures:

(a) Outcome: Percent of registered vehicles with liability insurance 93%

(b) Efficiency: Average call center wait time to reach an agent, in minutes <5:00

(c) Efficiency: Average wait time in qmatic-equipped offices, in minutes  
<15:00

(3) Property tax:

The purpose of the property tax program is to administer the Property Tax Code, to ensure the fair appraisal of property and to assess property taxes within the state.

Appropriations:

|     |  |         |         |
|-----|--|---------|---------|
| (a) | Personal services and<br>employee benefits | 2,669.3 | 2,669.3 |
| (b) | Contractual services                       | 668.0   | 668.0   |
| (c) | Other                                      | 694.1   | 694.1   |

~~[Performance measures:~~

~~(a) Output: Number of delinquent property tax sales held 33]~~

*LINE-ITEM VETO*

(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<br>employee benefits | 1,282.4 | 1,282.4 |
| (b) | Contractual services                       | 6.8     | 6.8     |
| (c) | Other                                      | 266.1   | 266.1   |

Performance measures:

(a) Outcome: Number of tax investigations referred to prosecutors as a  
percent of total investigations assigned during the year 85%

~~[(b) Explanatory: Turnover rate of tax fraud investigators]~~ *LINE-ITEM VETO*

(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<br>employee benefits | 12,843.2 | 913.0   | 13,756.2 |
| (b) | Contractual services                       | 3,190.7  | 120.3   | 3,311.0  |
| (c) | Other                                      | 2,028.1  | 2,028.1 |          |

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 in 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 fund appropriations to the department.

~~Performance measures:~~

~~[(a) Explanatory: Amount of general fund revenue pending from unresolved tax~~

~~protest cases, in millions] LINE-ITEM VETO~~

Subtotal 86,433.4

**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  | 3,643.4  | 3,643.4  |
| (b)                   | Contractual services   | 50,388.3 | 50,388.3 |
| (c)                   | Other  | 642.0    | 642.0    |
| 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   | 54,673.7 |          |

### **ADMINISTRATIVE HEARINGS OFFICE:**

(1) Administrative hearings:

The purpose of the administrative hearings program is to adjudicate tax-, property- and motor-vehicle-related administrative hearings in a fair, efficient and impartial manner independent of the executive agency that is party to the proceedings.

Appropriations:

|     |                       |         |         |
|-----|-----------------------|---------|---------|
| (a) | Personal services and |         |         |
|     | employee benefits     | 1,226.7 | 165.0   |
|     |                       |         | 1,391.7 |
| (b) | Contractual services  | 22.7    | 22.7    |
| (c) | Other                 | 254.3   | 254.3   |

The other state funds appropriation to the administrative hearings office includes one hundred sixty-five thousand dollars (\$165,000) from the motor vehicle suspense fund.

Performance measures:

- (a) Outcome: Percent of hearings for implied consent act cases not held within ninety days due to administrative hearings office error <0.5%

Subtotal 1,668.7

**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     | 2,934.2 | 2,934.2 |
| (b) | Contractual services  | 83.7    | 83.7    |
| (c) | Other                 | 117.8   | 117.8   |

Performance measures:

|     |   |         |
|-----|---|---------|
| (a) | Outcome: General fund reserves as a percent of recurring        |         |
|     | appropriations  | 10%     |
| (b) | Outcome: Error rate for the eighteen-month general fund revenue |         |
|     | forecast, gas revenue and corporate income taxes                | (+/-)3% |

(2) Community development, local government assistance and fiscal oversight:

The purpose of the community development, local government assistance and fiscal oversight program is to help counties, municipalities and special districts maintain strong communities through sound fiscal advice and oversight, technical assistance, monitoring of project and program progress and timely processing of payments, grant agreements and contracts.

Appropriations:

|     |                       |               |         |               |
|-----|-----------------------|---------------|---------|---------------|
| (a) | Personal services and |               |         |               |
|     | employee benefits     | 1,665.4       | 1,040.4 | 412.4 3,118.2 |
| (b) | Contractual services  | 2,248.1       | 1,736.1 | 2.0           |
|     |                       | 3,986.2       |         |               |
| (c) | Other                 | 77.9 28,165.9 | 9,788.9 | 38,032.7      |



|     |                      |         |         |
|-----|----------------------|---------|---------|
| (d) | Other financing uses | 1,900.0 | 1,900.0 |
|-----|----------------------|---------|---------|

~~[The general fund appropriation to the community development, local government assistance and fiscal oversight program of the department of finance and administration in the contractual services category includes an additional one hundred thousand dollars (\$100,000) for civil legal services.] LINE-ITEM VETO~~

The other state funds appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include twelve million four hundred fifty-five thousand dollars (\$12,455,000) from the enhanced 911 fund, eighteen million seven hundred thirty thousand dollars (\$18,730,000) from the local DWI grant fund, including one million six hundred thousand dollars (\$1,600,000) for local DWI grant program distributions to be transferred to the administrative office of the courts for drug courts, and one million six hundred fifty-seven thousand four hundred dollars (\$1,657,400) from the civil legal services fund.

Performance measures:

(a) Output: Percent of county and municipality budgets approved by the local government division of budgets submitted timely 95%

(b) Outcome: Number of counties and municipalities local government division assisted during the fiscal year to resolve audit

findings and diminish poor audit opinions 10

(3) Fiscal management and oversight:

The purpose of the fiscal management and oversight program is to provide for and promote financial accountability for public funds throughout state government by providing state agencies and the citizens of New Mexico with timely, accurate and comprehensive information on the financial status and expenditures of the state and approve all state professional service contracts.

Appropriations:

|     |  |          |          |
|-----|--|----------|----------|
| (a) | Personal services and<br>employee benefits | 4,950.1  | 4,950.1  |
| (b) | Contractual services                       | 847.7    | 847.7    |
| (c) | Other                                      | 364.5    | 364.5    |
| (d) | Other financing uses                       | 29,600.0 | 18,000.0 |
|     |  | 47,600.0 |          |

The internal service funds/interagency transfers appropriation to the fiscal management and oversight program of the department of finance and administration in the other financing uses category includes eighteen million dollars (\$18,000,000) from the tobacco settlement program fund.

Notwithstanding the provisions of Section 27-10-3 NMSA 1978, the other state funds appropriation in the other financing uses category of the fiscal management and oversight program of the department of finance and administration includes twenty-nine million six hundred thousand dollars (\$29,600,000) from the county-supported medicaid fund.

Performance measures:

(a) Efficiency: Percent of vouchered vendor payments processed within five working days 95%

(b) Output: Percent of bank accounts reconciled on an annual basis 100%

(4) Program support:

The purpose of program support is to provide other department of finance and administration programs with central direction to agency management processes to ensure consistency, legal compliance and financial integrity, to provide human resources support and to administer the executive's exempt salary plan.

Appropriations:

|     |                       |       |       |
|-----|-----------------------|-------|-------|
| (a) | Personal services and |       |       |
|     | employee benefits     | 803.4 | 803.4 |
| (b) | Contractual services  | 73.6  | 73.6  |
| (c) | Other                 | 26.0  | 26.0  |

(5) Dues and membership fees/special appropriations:

Appropriations:

|     |                             |       |       |
|-----|-----------------------------|-------|-------|
| (a) | National association of     |       |       |
|     | state budget officers       | 20.2  | 20.2  |
| (b) | Western governors'          |       |       |
|     | association                 | 36.0  | 36.0  |
| (c) | National governors'         |       |       |
|     | association                 | 83.8  | 83.8  |
| (d) | Emergency water supply fund | 104.8 | 104.8 |

|     |  |            |          |
|-----|--|------------|----------|
| (e) | Fiscal agent contract                            | 1,064.8    | 1,064.8  |
| (f) | State planning districts                         | 593.0      | 593.0    |
| (g) | Statewide teen court                             | 17.7 115.0 | 132.7    |
| (h) | Law enforcement protection<br>fund               | 19,000.0   | 19,000.0 |
| (i) | Leasehold community<br>assistance                | 114.1      | 114.1    |
| (j) | County detention of<br>prisoners                 | 2,387.5    | 2,387.5  |
| (k) | Acequia and community<br>ditch education program | 398.2      | 398.2    |
| (l) | New Mexico acequia<br>commission                 | 88.1       | 88.1     |
| (m) | Land grant council                               | 221.9      | 221.9    |

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 2019. 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 made in items (d) through (m) to a New Mexico agency or local public body that is not current on its audit or financial reporting or otherwise in compliance with the Audit Act.

|          |           |
|----------|-----------|
| Subtotal | 129,083.2 |
|----------|-----------|

**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 | 332,022.1 | 332,022.1 |
| (b) | Other financing uses | 658.8     | 658.8     |

Performance measures:

- (a) Outcome: Percent change in per-member health claim costs ≤4.5%
- (b) Outcome: Percent change in medical premium as compared with industry average ≤5%

(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 | 74,419.4 | 74,419.4 |
| (b) | Other financing uses | 658.8    | 658.8    |

Performance measures:

- (a) Outcome: Percent of schools in compliance with loss control prevention recommendations 75%
- (b) Outcome: Average cost per claim for current fiscal year <\$3,000

(3) Program support:

The purpose of program support is to provide administrative support for the benefits and risk programs and to assist the agency in delivering services to its constituents.

Appropriations:

|     |   |       |       |
|-----|---|-------|-------|
| (a) | Personal services and employee benefits | 997.9 | 997.9 |
|-----|---|-------|-------|

|     |                      |       |       |      |
|-----|----------------------|-------|-------|------|
| (b) | Contractual services |       | 94.7  | 94.7 |
| (c) | Other                | 225.0 | 225.0 |      |

Any unexpended balances in program support of the New Mexico public school insurance authority remaining at the end of fiscal year 2019 shall revert in equal amounts to the benefits program and risk program.

|          |  |  |           |  |
|----------|--|--|-----------|--|
| Subtotal |  |  | 409,076.7 |  |
|----------|--|--|-----------|--|

**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 |      | 332,450.7 | 332,450.7 |
| (b) | Other                | 42.0 | 42.0      |           |
| (c) | Other financing uses |      | 3,015.2   | 3,015.2   |

Performance measures:

|             |  |    |
|-------------|--|----|
| (a) Output: | Minimum number of years of positive fund balance | 18 |
|-------------|--|----|

(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<br>employee benefits |       | 1,905.1 | 1,905.1 |
| (b) | Contractual services                       |       | 566.3   | 566.3   |
| (c) | Other                                      | 543.8 | 543.8   |         |

Any unexpended balance in program support of the retiree health care authority remaining at the end of fiscal year 2019 shall revert to the healthcare benefits administration program.

Subtotal 338,523.1

**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 | 19,089.6  | 19,089.6  |
| (b) | Other                | 348,800.0 | 348,800.0 |
| (c) | Other financing uses | 568.8     | 568.8     |

Performance measures:

(a) Efficiency: Percent change in state employee medical premium 4%

(b) Outcome: Percent change in the average per-member total healthcare cost <7%

(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<br>employee benefits | 4,284.2 | 4,284.2 |
| (b) | Contractual services                       | 150.0   | 150.0   |
| (c) | Other                                      | 339.6   | 339.6   |
| (d) | Other financing uses                       | 3,210.8 | 3,210.8 |

Any unexpended balances in the risk management program of the general services department remaining at the end of fiscal year 2019 shall revert to the public liability fund, public property fund, workers' compensation 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 risk management program operations.

(3) Risk management funds:

Appropriations:

|     |   |          |          |
|-----|---|----------|----------|
| (a) | Public liability  | 39,583.3 | 39,583.3 |
| (b) | Surety bond   | 30.0     | 30.0     |
| (c) | Public property reserve                                   | 9,427.5  | 9,427.5  |
| (d) | Local public body<br>unemployment compensation<br>reserve | 3,090.0  | 3,090.0  |
| (e) | Workers' compensation<br>retention                        | 18,307.6 | 18,307.6 |
| (f) | State unemployment<br>compensation                        | 7,600.0  | 7,600.0  |

Performance measures:

- (a) Explanatory: Projected financial position of the public property fund
- (b) Explanatory: Projected financial position of the workers' compensation fund
- (c) Explanatory: Projected financial position of the public liability fund

(4) State printing services:

The purpose of the state printing services program is to provide cost-effective printing and publishing services for governmental agencies.

Appropriations:

|     |  |       |       |
|-----|--|-------|-------|
| (a) | Personal services and<br>employee benefits | 506.4 | 506.4 |
|-----|--|-------|-------|

|     |                      |         |         |
|-----|----------------------|---------|---------|
| (b) | Contractual services | 100.0   | 100.0   |
| (c) | Other                | 1,004.3 | 1,004.3 |
| (d) | Other financing uses | 55.1    | 55.1    |

Performance measures:

(a) Output: Revenue generated per employee compared with the previous thirty- or sixty-day legislative session \$180,000

(b) Outcome: Sales growth in state printing revenue compared with the previous thirty- or sixty-day legislative session 10%

(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 | 6,665.7       | 6,665.7 |
| (b) | Contractual services                    | 270.8         | 270.8   |
| (c) | Other                                   | 5,275.6 692.8 | 5,968.4 |
| (d) | Other financing uses                    | 200.0         | 200.0   |

Notwithstanding the provisions of Section 15-3B-20 NMSA 1978, the other state funds appropriation to the facilities management program of the general services department includes six hundred ninety-two thousand eight hundred dollars (\$692,800) from the property control reserve fund.

Performance measures:

(a) Efficiency: Percent of capital projects completed on schedule 95%

(b) Outcome: Percent of new office space leases achieving adopted space standards 25%

(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<br>employee benefits | 291.3 | 2,009.8 |         | 2,301.1 |
| (b) | Contractual services                       | 1.8   | 188.9   |         | 190.7   |
| (c) | Other                                      | 207.3 | 5,708.6 | 5,915.9 |         |
| (d) | Other financing uses                       | 23.6  | 273.9   |         | 297.5   |

Performance measures:

(a) Efficiency: Average vehicle operation costs per mile <\$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<br>employee benefits | 603.5 | 1,108.5 |       | 1,712.0 |
| (b) | Contractual services                       |       | 34.0    |       | 34.0    |
| (c) | Other                                      | 211.7 |         | 211.7 |         |
| (d) | Other financing uses                       | 13.7  | 57.2    |       | 70.9    |

Performance measures:

(a) Outcome: Percent of executive branch agencies with certified procurement officers 98%

(b) Output: Cost avoidance due to negotiated savings for construction procurements \$300,000

(8) Program support:

The purpose of program support is to manage the program performance process to demonstrate success.

Appropriations:

|     |  |         |         |
|-----|--|---------|---------|
| (a) | Personal services and<br>employee benefits | 2,691.4 | 2,691.4 |
| (b) | Contractual services                       | 242.1   | 242.1   |
| (c) | Other                                      | 900.8   | 900.8   |

Any unexpended balances in program support of the general services department remaining at the end of fiscal year 2019 shall revert to the procurement services, state printing services, risk management, facilities management and transportation services programs based on the proportion of each individual program's final assessment for program support.

Subtotal 483,820.2

**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<br>employee benefits | 5,864.4  | 5,864.4  |
| (b) | Contractual services                       | 24,497.0 | 24,497.0 |
| (c) | Other                                      | 1,105.4  | 1,105.4  |

The other state funds appropriation to the educational retirement board in the personal services and employee benefits category includes three hundred forty-three thousand dollars (\$343,000) from the education retirement board fund for one additional full-time equivalent permanent position and two temporary positions for the investment division and one additional full-time equivalent permanent position and two full-time equivalent term positions for the data cleanse project.

Performance measures:

(a) Outcome: Funding period of unfunded actuarial accrued liability, in

years ≤30

Subtotal 31,466.8

**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 | 495.6 | 52.0  | 547.6 |
| (b) | Other 4.0            |       | 4.0   |       |
|     | Subtotal             |       | 551.6 |       |

**GOVERNOR:**

(1) Executive management and leadership:

The purpose of the executive management and leadership program is to provide appropriate management and leadership to the executive branch of government to allow for a more efficient and effective operation of the agencies within that branch of government on behalf of the citizens of the state.

Appropriations:

|     |  |         |         |         |
|-----|--|---------|---------|---------|
| (a) | Personal services and<br>employee benefits | 2,780.0 |         | 2,780.0 |
| (b) | Contractual services                       | 86.1    |         | 86.1    |
| (c) | Other 360.5                                |         | 360.5   |         |
|     | Subtotal                                   |         | 3,226.6 |         |

**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<br>employee benefits | 445.0 |       | 445.0 |
| (b) | Contractual services                       | 12.8  |       | 12.8  |
| (c) | Other                                      | 50.6  | 50.6  |       |
|     | Subtotal                                   |       | 508.4 |       |

**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<br>employee benefits | 624.1 | 2,168.5 | 2,792.6 |
| (b) | Other                                      | 42.9  | 14.5    | 57.4    |
| (c) | Other financing uses                       | 178.1 | 467.5   | 645.6   |

Performance measures:

- (a) Outcome: Percent of information technology professional service contracts reviewed with quality feedback in five business days 90%

(2) Enterprise services:

The purpose of the enterprise services program is to provide reliable and secure infrastructure for voice, radio, video and data communications through the state's enterprise data center and telecommunications network.

Appropriations:

- (a) Personal services and

|     |                      |          |          |
|-----|----------------------|----------|----------|
|     | employee benefits    | 12,094.3 | 12,094.3 |
| (b) | Contractual services | 10,821.8 | 10,821.8 |
| (c) | Other                | 27,493.3 | 27,493.3 |
| (d) | Other financing uses | 11,795.9 | 11,795.9 |

Performance measures:

(a) Outcome: Percent of service desk incidents resolved within the timeframe specified for their priority level 95%

(3) Equipment replacement revolving funds:

Appropriations:

|     |                      |         |         |
|-----|----------------------|---------|---------|
| (a) | Contractual services | 1,663.0 | 1,663.0 |
| (b) | Other                | 4,521.6 | 4,521.6 |

(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<br>employee benefits | 3,294.5 | 3,294.5 |
| (b) | Contractual services                       | 22.2    | 22.2    |
| (c) | Other                                      | 289.7   | 289.7   |

Performance measures:

(a) Explanatory: Overall results of the department's annual customer satisfaction survey

(b) Outcome: Percent of enterprise services areas achieving full cost recovery 90%

Subtotal 75,491.9

**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<br>employee benefits | 84.6 | 6,635.3  | 6,719.9  |
| (b) | Contractual services                       |      | 28,179.1 | 28,179.1 |
| (c) | Other                                      | 4.5  | 1,361.3  | 1,365.8  |

Performance measures:

(a) Outcome: Funding period of unfunded actuarial accrued liability, in  
years 30

Subtotal 36,264.8

**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<br>employee benefits | 2,371.4 | 2,371.4 |       |
| (b) | Contractual services                       | 19.5    | 19.5    |       |
| (c) | Other                                      | 35.6    | 386.0   | 421.6 |

Performance measures:

(a) Outcome: Number of state employee trainings on filing and publishing

a notice of rulemaking and rules in compliance with the

State Rules Act 24

Subtotal 2,812.5

**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     | 2,854.0    | 2,854.0 |
| (b) | Contractual services  | 146.4      | 146.4   |
| (c) | Other                 | 392.4 35.0 | 427.4   |

(2) Elections:

The purpose of the elections program is to provide voter education and information on election law and government ethics to citizens, public officials and candidates so they can comply with state law.

Appropriations:

|     |                       |               |         |
|-----|-----------------------|---------------|---------|
| (a) | Personal services and |               |         |
|     | employee benefits     | 638.4         | 638.4   |
| (b) | Contractual services  | 807.7         | 807.7   |
| (c) | Other                 | 3,642.0 440.0 | 4,082.0 |

Notwithstanding the provisions of Section 1-19A-10 NMSA 1978, the internal service funds/interagency transfers appropriation to the elections program of the secretary of state in the other category includes four hundred forty thousand dollars (\$440,000) from the public election fund. Any unexpended balances

in the elections program of the secretary of state at the end of fiscal year 2019 from appropriations made from the public election fund shall revert to the public election fund.

Performance measures:

- (a) Outcome: Percent of eligible voters registered to vote 90%
- (b) Outcome: Percent of reporting individuals in compliance with  
campaign finance reporting requirements 99%
- (c) Efficiency: Percent of public records requests responded to within the  
statutory deadline 100%
- (d) Explanatory: Percent of eligible-but-not-registered voters who respond  
to the annual outreach mailing conducted by the secretary  
of state

Subtotal 8,955.9

**PERSONNEL BOARD:**

(1) Human resource management:

The purpose of the human resource management program is to provide a flexible system of merit-based opportunity, appropriate compensation, human resource accountability and employee development that meets the evolving needs of the agencies, employees, applicants and the public so economy and efficiency in the management of state affairs may be provided while protecting the interest of the public.

Appropriations:

- (a) Personal services and  
employee benefits 3,335.0 269.1 3,604.1
- (b) Contractual services 40.0 40.0
- (c) Other 305.0 305.0

~~[Performance measures:~~

- ~~(a) Outcome: Average number of days to fill a position from the date of  
posting~~



~~(b) Explanatory: Statewide classified service vacancy rate~~

~~(c) Efficiency: Average state classified employee compa-ratio ≥95%]~~

*LINE-ITEM VETO*

Subtotal 3,949.1

**PUBLIC EMPLOYEE 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<br>employee benefits | 172.0 | 172.0 |
| (b) Contractual services                       | 5.9   | 5.9   |
| (c) Other                                      | 50.9  | 50.9  |
| Subtotal                                       |       | 228.8 |

**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<br>employee benefits | 2,914.1     | 2,914.1 |
| (b) Contractual services                       | 162.1 122.3 | 284.4   |
| (c) Other                                      | 352.4 2.0   | 354.4   |

Performance measures:

(a) Outcome: One-year annualized investment return on general fund core portfolio to exceed internal benchmarks, in basis points 10

|                       |             |             |          |          |  |
|-----------------------|-------------|-------------|----------|----------|--|
| Subtotal              |             |             | 3,552.9  |          |  |
| TOTAL GENERAL CONTROL | 126,779.1   | 1,503,195.6 | 51,780.1 | 14,648.7 |  |
|                       | 1,696,403.5 |             |          |          |  |

## D. COMMERCE AND INDUSTRY

### BOARD OF EXAMINERS FOR ARCHITECTS:

(1) Architectural registration:

The purpose of the architectural registration program is to regulate, through enforcement and licensing, the professional conduct of architects to protect the health, safety and welfare of the general public of the state.

#### Appropriations:

|     |                       |       |       |       |
|-----|-----------------------|-------|-------|-------|
| (a) | Personal services and |       |       |       |
|     | employee benefits     | 292.8 |       | 292.8 |
| (b) | Contractual services  |       | 11.0  | 11.0  |
| (c) | Other                 | 83.3  | 83.3  |       |
|     | Subtotal              |       | 387.1 |       |

### 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     | 299.5 | 23.6  | 323.1 |
| (b) | Contractual services  |       | 53.0  | 53.0  |
| (c) | Other                 | 125.2 | 125.2 |       |
|     | Subtotal              |       | 501.3 |       |

## 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<br>employee benefits | 1,257.2      | 1,257.2 |
| (b) | Contractual services                       | 504.1        | 504.1   |
| (c) | Other                                      | 9,656.7 30.0 | 9,686.7 |

#### Performance measures:

- (a) Outcome: New Mexico's domestic overnight visitor market share 1.1%
- (b) Outcome: Percent change in New Mexico leisure and hospitality  
employment 3%

### (2) Tourism development:

The purpose of the tourism development program is to provide constituent services for communities, regions and other entities so they may identify their needs and assistance can be provided to locate resources to fill those needs, whether internal or external to the organization.

#### Appropriations:

|     |  |               |         |
|-----|--|---------------|---------|
| (a) | Personal services and<br>employee benefits | 344.9         | 344.9   |
| (b) | Contractual services                       | 3.4           | 3.4     |
| (c) | Other                                      | 691.7 1,230.3 | 1,922.0 |

#### Performance measures:

- (a) Output: Number of entities participating in collaborative  
applications for the cooperative advertising program 70

(b) Outcome: Combined advertising spending of communities and entities

using the tourism department's current approved brand, in

thousands \$2,200

(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 | 925.7 | 925.7 |
|-------------------|-------|-------|

|                          |       |       |
|--------------------------|-------|-------|
| (b) Contractual services | 825.5 | 825.5 |
|--------------------------|-------|-------|

|           |         |         |
|-----------|---------|---------|
| (c) Other | 1,428.1 | 1,428.1 |
|-----------|---------|---------|

Performance measures:

|  |           |
|--|-----------|
| (a) Output: True adventure guide advertising revenue | \$500,000 |
|--|-----------|

|   |      |
|---|------|
| (b) Output: Advertising revenue per issue, in thousands | \$73 |
|---|------|

(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 | 935.8 | 935.8 |
|-------------------|-------|-------|

|                          |      |      |
|--------------------------|------|------|
| (b) Contractual services | 75.6 | 75.6 |
|--------------------------|------|------|

|           |       |       |
|-----------|-------|-------|
| (c) Other | 146.2 | 146.2 |
|-----------|-------|-------|

|          |          |
|----------|----------|
| Subtotal | 18,055.2 |
|----------|----------|

**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<br>employee benefits | 1,619.9 | 1,619.9 |
| (b) | Contractual services                       | 2,245.6 | 2,245.6 |
| (c) | Other                                      | 4,563.4 | 4,563.4 |

The general fund appropriation to the economic development program of the economic development department in the contractual services category includes one million dollars (\$1,000,000) for the New Mexico economic development corporation and one hundred thirty thousand dollars (\$130,000) for business incubators.

The general fund appropriation to the economic development program of the economic development department in the other category includes four million dollars (\$4,000,000) for the development training fund, ~~[of this amount at least one-third shall be expended for training in nonurban areas of the state,]~~ one hundred thousand dollars (\$100,000) for the technology research collaborative, one hundred fifty thousand dollars (\$150,000) for the international trade office and two hundred thousand dollars (\$200,000) for mainstreet grants ~~[in frontier counties]~~. *LINE-ITEM VETO*

Performance measures:

- (a) Outcome: Number of workers trained by the job training incentive program 2,100
- (b) Outcome: Number of jobs created due to economic development department efforts 4,500
- (c) Outcome: Number of rural jobs created 1,600
- (d) Output: Number of private sector dollars leveraged by each dollar through the Local Economic Development Act 20:1
- (e) Output: Number of jobs created through the use of Local Economic Development Act funds 2,200
- (f) Outcome: Number of jobs created through business relocations

facilitated by the economic development partnership 2,250

(2) Film:

The purpose of the film program is to maintain the core business for the film location services and stimulate growth in digital film media to maintain the economic vitality of New Mexico's film industry.

Appropriations:

|     |  |       |       |
|-----|--|-------|-------|
| (a) | Personal services and<br>employee benefits | 524.3 | 524.3 |
| (b) | Contractual services                       | 82.8  | 82.8  |
| (c) | Other                                      | 78.9  | 78.9  |

(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<br>employee benefits | 1,425.0 | 1,425.0  |
| (b) | Contractual services                       | 92.7    | 92.7     |
| (c) | Other                                      | 172.0   | 172.0    |
|     | Subtotal                                   |         | 10,804.6 |

**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<br>employee benefits | 7,018.7 | 160.1 | 150.0 | 17.5 | 7,346.3 |
|-----|--|---------|-------|-------|------|---------|

|     |                      |       |       |       |         |
|-----|----------------------|-------|-------|-------|---------|
| (b) | Contractual services |       | 249.8 |       | 249.8   |
| (c) | Other                | 777.9 | 46.9  | 180.0 | 1,004.8 |
| (d) | Other financing uses |       |       | 30.7  | 30.7    |

Performance measures:

(a) Outcome: Percent of commercial plans reviewed within ten working days  
90%

(b) Outcome: Percent of residential plans reviewed within five working  
days 95%

(c) Output: Time to final action, referral or dismissal of complaint,  
in months 8

(2) Financial institutions:

The purpose of the financial institutions program is to issue charters and licenses, perform examinations, investigate complaints and enforce laws, rules and regulations so that capital formation is maximized and a secure financial infrastructure is available to support economic development.

Appropriations:

|     |  |       |         |       |         |
|-----|--|-------|---------|-------|---------|
| (a) | Personal services and<br>employee benefits | 639.4 | 1,126.7 | 725.5 | 2,491.6 |
| (b) | Contractual services                       |       | 3.5     | 35.0  | 38.5    |
| (c) | Other                                      | 157.1 | 289.3   |       | 446.4   |
| (d) | Other financing uses                       |       |         | 114.5 | 1,000.0 |
|     |  |       |         |       | 1,114.5 |

Notwithstanding the provisions of Section 9-16-15 NMSA 1978, the internal service funds/interagency transfers appropriation to the financial institutions program of the regulation and licensing department in the personal services and employee benefits category includes seven hundred twenty-five thousand five hundred dollars (\$725,500) from the mortgage regulatory fund for the general operation of the financial institutions program.

Notwithstanding the provisions of Section 9-16-15 NMSA 1978, the internal service funds/interagency transfers appropriation to the financial institutions program of the regulation and licensing department in the other financing uses category includes one million dollars (\$1,000,000) from the mortgage regulatory fund for the legal services program of the attorney general.

Performance measures:

(a) Outcome: Percent of statutorily complete applications processed

within a standard number of days by type of application 97%

(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 885.1 885.1

(b) Contractual services 2.6 2.6

(c) Other 68.1 68.1

Performance measures:

(a) Output: Number of days to resolve an administrative citation that does not require a hearing 100

(b) Outcome: Number of days to issue a restaurant beer and wine liquor license 130

(4) Securities:

The purpose of the securities program is to protect the integrity of the capital market in New Mexico by setting standards for licensed professionals, investigating complaints, educating the public and enforcing the law.

Appropriations:

(a) Personal services and

employee benefits 637.1 761.2 1,398.3

(b) Contractual services 2.7 50.0 52.7

(c) Other 121.3 208.0 329.3



|                          |  |       |  |       |
|--------------------------|--|-------|--|-------|
| (d) Other financing uses |  | 105.2 |  | 105.2 |
|--------------------------|--|-------|--|-------|

Performance measures:

|  |  |  |  |      |
|--|--|--|--|------|
| (a) Outcome: Total revenue collected from licensing, in millions |  |  |  | \$25 |
|--|--|--|--|------|

(5) Boards and commissions:

Appropriations:

|  |         |         |         |         |
|--|---------|---------|---------|---------|
| (a) Personal services and<br>employee benefits | 416.9   | 1,875.7 | 3,220.9 | 5,513.5 |
| (b) Contractual services                       |         |         | 435.2   | 435.2   |
| (c) Other                                      | 1,505.4 | 132.2   | 1,637.6 |         |
| (d) Other financing uses                       |         |         | 1,763.0 | 73.4    |
|  |         |         |         | 1,836.4 |

(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<br>employee benefits | 1,148.2 |       | 1,605.6  | 2,753.8 |
| (b) Contractual services                       |         | 117.3 | 221.2    | 338.5   |
| (c) Other                                      | 26.5    | 543.4 | 569.9    |         |
| Subtotal                                       |         |       | 28,648.8 |         |

**PUBLIC REGULATION COMMISSION:**

(1) Policy and regulation:

The purpose of the policy and regulation program is to fulfill the constitutional and legislative mandates regarding regulated industries through rulemaking, adjudications and policy initiatives to ensure the provision of adequate and reliable services at fair, just and reasonable rates so the interests of the consumers and regulated industries are balanced to promote and protect the public interest.

Appropriations:

|     |                       |         |       |         |
|-----|-----------------------|---------|-------|---------|
| (a) | Personal services and |         |       |         |
|     | employee benefits     | 6,525.2 | 116.3 | 6,641.5 |
| (b) | Contractual services  |         | 68.2  | 68.2    |
| (c) | Other                 | 590.9   | 590.9 |         |

Notwithstanding the provisions of Section 59A-53-5.2 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to the policy and regulation program of the public regulation commission include four hundred eighty-eight thousand one hundred dollars (\$488,100) from the fire protection fund. Any unexpended balances in the policy and regulation program of the public regulation commission remaining at the end of fiscal year 2019 from the appropriation made from the fire protection fund shall revert back to the fire protection fund.

Performance measures:

|  |  |       |
|--|--|-------|
| (a) Outcome: Dollar amount of credits and refunds obtained for New |  |       |
| Mexico consumers through complaint resolution, in thousands        |  | \$150 |

(2) Public safety:

The purpose of the public safety program is to provide services and resources to the appropriate entities to enhance their ability to protect the public from fire and pipeline hazards and other risk as assigned to the public regulation commission.

Appropriations:

|     |                       |          |         |          |
|-----|-----------------------|----------|---------|----------|
| (a) | Personal services and |          |         |          |
|     | employee benefits     |          | 3,755.4 | 3,755.4  |
| (b) | Contractual services  |          | 393.3   | 393.3    |
| (c) | Other                 | 66,518.2 | 899.8   | 67,418.0 |

Notwithstanding the provisions of Section 59A-53-5.2 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to the public safety program of the public regulation commission include three million six hundred thirty-seven thousand four hundred dollars (\$3,637,400) from the fire protection fund. Any unexpended balances in the public safety program of the public regulation commission remaining at the end of fiscal year 2019 from the appropriation made from the fire protection fund shall revert back to the fire protection fund.

Performance measures:

|   |  |  |
|---|--|--|
| (a) Outcome: Percent of statewide fire districts with insurance service |  |  |
|---|--|--|

office ratings of eight or better 84%

(b) Output: Number of pipeline safety inspection, excavation damage prevention and investigation hours performed by the pipeline safety bureau in a fiscal year 8,000

(3) Program support:

The purpose of program support is to provide administrative support and direction to ensure consistency, compliance, financial integrity and fulfillment of the agency mission.

Appropriations:

|   |       |       |         |
|---|-------|-------|---------|
| (a) Personal services and employee benefits | 736.6 | 776.0 | 1,512.6 |
| (b) Contractual services                    |       | 35.9  | 35.9    |
| (c) Other                                   | 157.9 | 157.9 |         |

Notwithstanding the provisions of Section 59A-53-5.2 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriations to program support of the public regulation commission include six hundred fifty thousand eight hundred dollars (\$650,800) from the fire protection fund. Any unexpended balances in program support of the public regulation commission remaining at the end of fiscal year 2019 from the appropriation made from the fire protection fund shall revert back to the fire protection fund.

Subtotal 80,573.7

**OFFICE OF SUPERINTENDENT OF INSURANCE:**

(1) Insurance policy:

The purpose of the insurance policy program is to ensure easy public access to reliable insurance products that meet consumers' needs and are underwritten by dependable, reputable, financially sound companies that charge fair rates and are represented by trustworthy, qualified agents, while promoting a positive competitive business climate.

Appropriations:

|   |         |         |       |         |
|---|---------|---------|-------|---------|
| (a) Personal services and employee benefits | 1,312.1 | 5,620.8 | 195.3 | 7,128.2 |
| (b) Contractual services                    | 133.6   | 207.4   | 468.2 | 809.2   |

(c) Other 375.1 727.4 30.2 1,132.7

Performance measures:

(a) Efficiency: Percent of insurance fraud bureau complaints processed  
and

recommended for further adjudication by a competent court,  
referral to civil division or closure within ninety days 80%

(2) Patient's compensation fund:

Appropriations:

|  |          |          |
|--|----------|----------|
| (a) Personal services and<br>employee benefits | 77.0     | 77.0     |
| (b) Contractual services                       | 384.4    | 384.4    |
| (c) Other                                      | 17,014.9 | 17,014.9 |
| (d) Other financing uses                       | 689.0    | 689.0    |
| Subtotal                                       | 27,235.4 |          |

#### **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<br>employee benefits | 1,299.1 | 1,299.1 |
| (b) Contractual services                       | 334.0   | 334.0   |
| (c) Other                                      | 375.0   | 375.0   |

Performance measures:

|             |   |         |
|-------------|---|---------|
| (a) Output: | Number of triennial physician licenses issued or renewed          | 4,100   |
| (b) Output: | Number of biennial physician assistant licenses issued or renewed | 450     |
| Subtotal    |   | 2,008.1 |

**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 | 1,656.1 | 1,656.1 |
| (b) | Contractual services                    | 37.2    | 37.2    |
| (c) | Other                                   | 391.0   | 391.0   |
| (d) | Other financing uses                    | 71.4    | 71.4    |

Performance measures:

- (a) Explanatory: Number of licensed practical nurse licenses active on June 30
- (b) Explanatory: Number of registered nurse licenses active on June 30
- (c) Explanatory: Number of certified nurse practitioner licenses active on June 30
- (d) Explanatory: Number of clinical nurse specialist licenses active on June 30
- (e) Explanatory: Number of certified registered nurse anesthetist licenses active on June 30

Subtotal 2,155.7

**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<br>employee benefits | 5,613.2 | 5,613.2 |
| (b) | Contractual services                       | 2,960.4 | 2,960.4 |
| (c) | Other                                      | 3,401.4 | 3,401.4 |

~~[The other state funds appropriation to the New Mexico state fair in the personal services and employee benefits category includes one million two hundred five thousand seven hundred dollars (\$1,205,700) for workers' compensation premiums, unemployment compensation and employee liability fees owed to the general services department. The other state funds appropriation to the New Mexico state fair in the other category includes fifty six thousand one hundred dollars (\$56,100) for transportation insurance and property insurance fees owed to the general services department.]~~ LINE-ITEM VETO

Performance measures:

(a) Output: Number of paid attendees at annual state fair event 430,000

Subtotal 11,975.0

**STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS:**

(1) Regulation and licensing:

The purpose of the regulation and licensing program is to regulate the practices of engineering and surveying in the state as they relate to the welfare of the public in safeguarding life, health and property and to provide consumers with licensed professional engineers and licensed professional surveyors.

Appropriations:

|     |  |       |       |
|-----|--|-------|-------|
| (a) | Personal services and<br>employee benefits | 533.1 | 533.1 |
| (b) | Contractual services                       | 217.8 | 217.8 |
| (c) | Other                                      | 115.5 | 115.5 |

Subtotal 866.4

**GAMING CONTROL BOARD:**

(1) Gaming control:

The purpose of the gaming control program is to provide strictly regulated gaming activities and to promote responsible gaming to the citizens of New Mexico so they can attain a strong level of confidence in the board's administration of gambling laws and assurance the state has competitive gaming free from criminal and corruptive elements and influences.

Appropriations:

|     |  |         |         |
|-----|--|---------|---------|
| (a) | Personal services and<br>employee benefits | 3,475.6 | 3,475.6 |
| (b) | Contractual services                       | 809.8   | 809.8   |
| (c) | Other                                      | 866.6   | 866.6   |
|     | Subtotal                                   | 5,152.0 |         |

**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<br>employee benefits | 1,252.1           | 1,252.1 |
| (b) | Contractual services                       | 516.5 300.0 750.0 | 1,566.5 |
| (c) | Other                                      | 213.3             | 213.3   |

The other state funds appropriation to the horse racing regulation program of the state racing commission in the contractual services category includes three hundred thousand dollars (\$300,000) from fees generated pursuant to Section 60-2E-47 NMSA 1978 for racehorse testing.

Performance measures:

(a) Outcome: Percent of equine samples testing positive for illegal substances <1.5%

(b) Output: Total amount collected from parimutuel revenues, in millions \$1.6

(c) Explanatory: Number of horse fatalities per one thousand starts

Subtotal 3,031.9

### **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         | 180.0 |       | 180.0 |
| (b) Contractual services  |       | 156.8 | 156.8 |
| (c) Other                 | 77.0  | 77.0  |       |
| Subtotal                  |       | 413.8 |       |

### **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         | 111.8 | 111.0   | 222.8   |
| (b) Contractual services  |       | 4,048.7 | 4,048.7 |
| (c) Other                 | 155.3 | 155.3   |         |

Performance measures:



|   |         |
|---|---------|
| (a) Outcome: Total number of passengers | 40,000  |
| Subtotal                                | 4,426.8 |

**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<br>employee benefits | 126.1 | 126.1 |
| (b) Contractual services                       | 89.5  | 89.5  |
| (c) Other                                      | 11.3  | 11.3  |
| Subtotal                                       | 226.9 |       |

**SPACEPORT AUTHORITY:**

The purpose of the spaceport authority is to finance, design, develop, construct, equip and safely operate spaceport America and thereby generate significant high technology economic development throughout the state.

Appropriations:

|  |         |         |         |
|--|---------|---------|---------|
| (a) Personal services and<br>employee benefits | 975.9   | 1,761.2 | 2,737.1 |
| (b) Contractual services                       |         | 2,656.9 | 2,656.9 |
| (c) Other                                      | 2,191.9 | 2,191.9 |         |
| Subtotal                                       |         | 7,585.9 |         |

|                             |          |           |          |
|-----------------------------|----------|-----------|----------|
| TOTAL COMMERCE AND INDUSTRY | 52,702.2 | 62,165.5  | 87,569.9 |
|                             | 1,611.0  | 204,048.6 |          |

**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     | 16,312.4 | 2,352.5 | 110.0 | 91.8  | 18,866.7 |
| (b) | Contractual services  | 514.0    | 386.4   |       | 900.4 |          |
| (c) | Other                 | 3,759.8  | 1,469.3 | 15.0  |       | 5,244.1  |

The general fund appropriation to the museums and historic sites program of the cultural affairs department in the other category includes one hundred thousand dollars (\$100,000) for the Bosque Redondo memorial at the Fort Sumner historic site for programs and exhibits recognizing the Navajo and Mescalero Apache peoples.

Performance measures:

|     |  |             |
|-----|--|-------------|
| (a) | Outcome: Total number of people served through programs and services offered by museums and historic sites | 1,250,000   |
| (b) | Outcome: Total earned revenue including admissions, rentals and other revenue                              | \$4,250,000 |

(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     | 575.0 | 1,275.5 | 778.4 |  | 2,628.9 |
| (b) | Contractual services  |       | 101.6   | 20.0  |  | 121.6   |
| (c) | Other                 | 63.6  | 205.6   | 209.1 |  | 478.3   |

The other state funds appropriations to the preservation program of the cultural affairs department include one million dollars (\$1,000,000) from the department of transportation for archaeological studies as needed for highway projects.

(3) Library services:

The purpose of the library services program is to empower libraries to support the educational, economic and health goals of their communities and to deliver direct library and information services to those who need them.

Appropriations:

|     |                       |         |      |       |         |
|-----|-----------------------|---------|------|-------|---------|
| (a) | Personal services and |         |      |       |         |
|     | employee benefits     | 1,812.8 |      | 672.5 | 2,485.3 |
| (b) | Contractual services  | 127.3   |      | 9.5   | 136.8   |
| (c) | Other                 | 1,333.1 | 37.2 | 766.7 | 2,137.0 |

Performance measures:

- (a) Output: Number of library transactions using electronic resources  
 funded by the New Mexico state library 5,500,000

(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     | 681.8 |      | 168.5 | 850.3 |
| (b) | Contractual services  | 545.0 |      | 398.1 | 943.1 |
| (c) | Other                 | 95.1  | 49.6 | 144.7 |       |

(5) Program support:

The purpose of program support is to deliver effective, efficient, high-quality services in concert with the core agenda of the governor.

Appropriations:

|     |  |         |          |         |
|-----|--|---------|----------|---------|
| (a) | Personal services and<br>employee benefits | 3,386.2 |          | 3,386.2 |
| (b) | Contractual services                       | 249.9   | 35.9     | 285.8   |
| (c) | Other                                      | 284.4   | 284.4    |         |
|     | Subtotal                                   |         | 38,893.6 |         |

**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<br>employee benefits | 553.7   | 3,836.0 | 4,389.7 |
| (b) | Contractual services                       |         | 214.6   | 214.6   |
| (c) | Other                                      | 1,271.6 | 1,271.6 |         |
|     | Subtotal                                   |         | 5,875.9 |         |

**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<br>employee benefits | 6,850.2 | 312.4   | 7,162.6 |
| (b) | Contractual services                       |         | 128.7   | 128.7   |
| (c) | Other                                      | 1,822.9 | 1,822.9 |         |

Performance measures:

(a) Output: Number of conservation officer hours spent in the field  
checking for compliance 56,000

(2) Conservation services:

The purpose of the conservation services program is to provide information and technical guidance to any person wishing to conserve and enhance wildlife habitat and recover indigenous species of threatened and endangered wildlife.

Appropriations:

|     |  |         |         |          |
|-----|--|---------|---------|----------|
| (a) | Personal services and<br>employee benefits | 4,253.9 | 5,948.9 | 10,202.8 |
| (b) | Contractual services<br>3,582.8            | 1,276.6 | 2,306.2 |          |
| (c) | Other 2,620.1                              | 5,314.9 | 7,935.0 |          |
| (d) | Other financing uses                       | 682.3   | 682.3   |          |

The other state funds appropriation to the conservation services program of the department of game and fish in the other financing uses category includes 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, one hundred thousand dollars (\$100,000) from the game protection fund for Ute dam operations and eighty-two thousand three hundred dollars (\$82,300) from the game protection fund for Eagle Nest dam operations for the interstate stream compact compliance and water development program of the state engineer. Any unexpended balances remaining at the end of fiscal year 2019 from these appropriations shall revert to the game protection fund.

Performance measures:

(a) Outcome: Number of elk licenses offered on an annual basis in New  
Mexico 33,000

(b) Outcome: Percent of public hunting licenses drawn by New Mexico  
resident hunters 84%

(c) Output: Annual output of fish from the department's hatchery  
system, in pounds 640,000

(3) Wildlife depredation and nuisance abatement:

The purpose of the wildlife depredation and nuisance abatement program is to provide complaint administration and intervention processes to private landowners, leaseholders and other New Mexicans so they may be relieved of, and precluded from, property damage and annoyances or risks to public safety caused by protected wildlife.

Appropriations:

|     |                       |       |       |
|-----|-----------------------|-------|-------|
| (a) | Personal services and |       |       |
|     | employee benefits     | 317.6 | 317.6 |
| (b) | Contractual services  | 125.7 | 125.7 |
| (c) | Other                 | 565.9 | 565.9 |

Performance measures:

- (a) Outcome: Percent of depredation complaints resolved within the mandated one-year timeframe 98%

(4) Program support:

The purpose of program support is to provide an adequate and flexible system of direction, oversight, accountability and support to all divisions so they may successfully attain planned outcomes for all department programs.

Appropriations:

|     |                       |          |               |
|-----|-----------------------|----------|---------------|
| (a) | Personal services and |          |               |
|     | employee benefits     | 3,768.0  | 206.2 3,974.2 |
| (b) | Contractual services  | 443.0    | 443.0         |
| (c) | Other                 | 2,432.2  | 2,432.2       |
|     | Subtotal              | 39,375.7 |               |

**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:**

(1) Energy conservation and management:

The purpose of the energy conservation and management program is to develop and implement clean energy programs to decrease per capita energy consumption; use New Mexico's substantial renewable energy resources; minimize local, regional and global air emissions; lessen dependence on foreign oil and reduce in-state water demands associated with fossil-fueled electrical generation.

Appropriations:

|     |  |       |         |         |
|-----|--|-------|---------|---------|
| (a) | Personal services and<br>employee benefits | 710.4 | 525.6   | 1,236.0 |
| (b) | Contractual services                       | 15.7  | 63.2    | 78.9    |
| (c) | Other                                      | 40.8  | 1,199.2 | 1,240.0 |

(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<br>employee benefits | 3,159.3 | 203.2 | 3,031.6 | 6,394.1 |
| (b) | Contractual services                       | 69.8    | 27.0  | 382.2   | 479.0   |
| (c) | Other                                      | 523.2   | 340.0 | 5,625.0 | 6,488.2 |
| (d) | Other financing uses                       |         | 46.9  |         | 46.9    |

Performance measures:

- (a) Output: Number of nonfederal wildland firefighters provided  
professional and technical incident command system training 1,500
- (b) Output: Number of acres treated in New Mexico's forests and  
watersheds 15,500

(3) State parks:

The purpose of the state parks program is to create the best recreational opportunities possible in state parks by preserving cultural and natural resources, continuously improving facilities and providing quality, fun activities and to do it all efficiently.

Appropriations:

- (a) Personal services and

|     |                      |         |         |         |         |          |          |
|-----|----------------------|---------|---------|---------|---------|----------|----------|
|     | employee benefits    | 7,251.3 |         | 4,405.4 |         | 335.2    | 11,991.9 |
| (b) | Contractual services | 75.0    |         | 669.9   |         | 744.9    |          |
| (c) | Other                | 85.0    | 8,154.3 | 1,580.6 | 2,802.1 | 12,622.0 |          |
| (d) | Other financing uses |         |         | 1,145.3 |         | 1,145.3  |          |

The general fund appropriations to the state parks program of the energy, minerals and natural resources department include seventy-five thousand dollars (\$75,000) to support Rio Grande trail commission efforts to define viable path routes, mitigate challenges and establish the Rio Grande trail to run the length of the state from Colorado to Texas.

The internal service funds/interagency transfers appropriation to the state parks program of the energy, minerals and natural resources department 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. Any unexpended balances remaining at the end of fiscal year 2019 from this appropriation shall revert to the game protection fund.

Performance measures:

- (a) Explanatory: Number of visitors to state parks
- (b) Explanatory: Amount of self-generated revenue per visitor, in dollars

(4) Mine reclamation:

The purpose of the mine reclamation program is to implement the state laws that regulate the operation and reclamation of hard rock and coal mining facilities and to reclaim abandoned mine sites.

Appropriations:

|     |                       |       |       |      |         |         |  |
|-----|-----------------------|-------|-------|------|---------|---------|--|
| (a) | Personal services and |       |       |      |         |         |  |
|     | employee benefits     | 453.8 | 579.8 | 79.0 | 1,859.1 | 2,971.7 |  |
| (b) | Contractual services  |       |       | 35.6 | 4,707.4 | 4,743.0 |  |
| (c) | Other                 | 11.7  | 83.9  | 17.9 | 266.3   | 379.8   |  |
| (d) | Other financing uses  |       |       | 37.0 |         | 37.0    |  |

(5) Oil and gas conservation:

The purpose of the oil and gas conservation program is to assure the conservation and responsible development of oil and gas resources through professional, dynamic regulation.

Appropriations:



|     |  |         |         |       |         |
|-----|--|---------|---------|-------|---------|
| (a) | Personal services and<br>employee benefits | 4,436.6 | 145.7   | 222.1 | 4,804.4 |
| (b) | Contractual services                       | 67.9    | 1,663.6 | 450.0 | 2,181.5 |
| (c) | Other                                      | 449.3   | 101.4   | 113.3 | 664.0   |
| (d) | Other financing uses                       |         | 284.0   |       | 284.0   |

The general fund appropriation to the oil and gas conservation program of the energy, minerals and natural resources department in the personal services and employee benefits category includes two hundred thousand dollars (\$200,000) to hire additional staff.

Performance measures:

- (a) Output: Number of inspections of oil and gas wells and associated facilities 40,000
- (b) Outcome: Number of abandoned oil and gas wells properly plugged 27

(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<br>employee benefits | 2,745.9 | 951.3    | 623.3 | 4,320.5 |
| (b) | Contractual services                       | 97.5    | 19.6     | 9.6   | 126.7   |
| (c) | Other                                      | 10.1    | 125.7    | 194.8 | 330.6   |
|     | Subtotal                                   |         | 63,310.4 |       |         |

**YOUTH CONSERVATION CORPS:**

The purpose of the youth conservation corps is to provide funding for the employment of New Mexicans between the ages of fourteen and twenty-five to work on projects that will improve New Mexico's natural, cultural, historical and agricultural resources.

Appropriations:

- (a) Personal services and

|     |                      |         |         |
|-----|----------------------|---------|---------|
|     | employee benefits    | 171.5   | 171.5   |
| (b) | Contractual services | 3,478.1 | 3,478.1 |
| (c) | Other                | 211.2   | 211.2   |

Performance measures:

|             |                                   |         |
|-------------|-----------------------------------|---------|
| (a) Output: | Number of youth employed annually | 825     |
| Subtotal    |                                   | 3,860.8 |

**INTERTRIBAL CEREMONIAL OFFICE:**

The purpose of the intertribal ceremonial office is to aid in the planning, coordination and development of a successful intertribal ceremonial event in coordination with the Native American population.

Appropriations:

|          |                      |      |      |
|----------|----------------------|------|------|
| (a)      | Contractual services | 50.0 | 50.0 |
| Subtotal |                      | 50.0 |      |

**COMMISSIONER OF PUBLIC LANDS:**

(1) Land trust stewardship:

The purpose of the land trust stewardship program is to generate sustainable revenue from state trust lands to support public education and other beneficiary institutions and to build partnerships with all New Mexicans to conserve, protect and maintain the highest level of stewardship for these lands so that they may be a significant legacy for generations to come.

Appropriations:

|     |                       |          |          |
|-----|-----------------------|----------|----------|
| (a) | Personal services and |          |          |
|     | employee benefits     | 12,360.9 | 12,360.9 |
| (b) | Contractual services  | 2,677.6  | 2,677.6  |
| (c) | Other                 | 2,176.3  | 2,176.3  |

The commissioner of public lands is authorized to hold in suspense amounts received pursuant to agreements entered into for the sale of state royalty interests that, as a result of the sale, became eligible for tax credits under Section 29 of the federal Internal Revenue Code, above those amounts required by law to be transferred to the land grant permanent fund. The commissioner may expend as much of the money so held in suspense, as well as additional money held in escrow accounts resulting from the sales and money held in fund balance, as is necessary to repurchase the royalty interests pursuant to the agreements.

Performance measures:

(a) Outcome: Dollars generated through oil, natural gas and mineral

audit activities, in millions \$2.5

(b) Output: Average income per acre from oil, natural gas and mining

activities, in dollars \$200

(c) Output: Number of acres restored to desired conditions for future

sustainability 9,000

Subtotal

17,214.8

**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 to any person so they 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 | 11,436.9 | 545.4 | 109.7 | 12,092.0 |
|-------------------|----------|-------|-------|----------|

(b) Contractual services

|       |       |
|-------|-------|
| 624.7 | 624.7 |
|-------|-------|

(c) Other 77.9 1,257.8

|         |
|---------|
| 1,335.7 |
|---------|

The internal service funds/interagency transfers appropriations to the water resource allocation program of the state engineer include one million eight hundred forty-four thousand six hundred dollars (\$1,844,600) from the New Mexico irrigation works construction fund and one hundred forty-seven thousand six hundred dollars (\$147,600) from the improvement of Rio Grande income fund.

Performance measures:

(a) Output: Average number of unprotested new and pending applications

processed per month 50

(b) Outcome: Number of transactions abstracted annually into the water

administration technical engineering resource system

database 20,000

(2) Interstate stream compact compliance and water development:

The purpose of the interstate stream compact compliance and water development program is to provide resolution of federal and interstate water issues and to develop water resources and stream systems for the people of New Mexico so they can have maximum sustained beneficial use of available water resources.

Appropriations:

|     |                       |         |         |         |         |         |
|-----|-----------------------|---------|---------|---------|---------|---------|
| (a) | Personal services and |         |         |         |         |         |
|     | employee benefits     | 1,583.5 | 80.2    | 2,175.1 |         | 3,838.8 |
| (b) | Contractual services  |         | 70.0    | 4,780.0 | 24.3    | 4,874.3 |
| (c) | Other                 | 718.0   | 3,491.6 | 168.1   | 4,377.7 |         |

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include one million fifteen thousand dollars (\$1,015,000) from the New Mexico unit fund. Of this amount, seven hundred thousand dollars (\$700,000) is for New Mexico central Arizona project entity operations.

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include six million six hundred ninety-six thousand four hundred dollars (\$6,696,400) from the New Mexico irrigation works construction fund, one million eight hundred eighty-five thousand dollars (\$1,885,000) from the improvement of the Rio Grande income fund, one hundred thousand dollars (\$100,000) from the game protection fund for Ute dam operations and eighty-two thousand three hundred dollars (\$82,300) from the game protection fund for Eagle Nest dam operations. Any unexpended balances remaining at the end of fiscal year 2019 from these appropriations shall revert to the appropriate fund.

Revenue from the sale of water to United States government agencies by New Mexico from the emergency drought water agreement and from contractual reimbursements associated with the interstate stream compact compliance and water development program of the state engineer is appropriated to the interstate stream compact compliance and water development program of the state engineer to be used per the agreement with the United States bureau of reclamation.

The appropriations to the interstate stream compact compliance and water development program of the state engineer include one million nine hundred thousand dollars (\$1,900,000): (a) to match seventeen and one-half percent of the cost of work undertaken by the United States army corps of engineers pursuant to the federal Water Resources Development Act of 1986, provided that no amount of this appropriation shall be expended for any project unless the appropriate acequia system or community ditch has agreed to provide seven and one-half percent of the cost from any source other than the New Mexico irrigation works construction fund or improvement of the Rio Grande income fund and provided that no more than two hundred fifty thousand dollars (\$250,000) shall be allocated to any one acequia or community ditch per fiscal year; (b) for the construction, restoration, repair and protection from floods of dams, reservoirs, ditches, diversions, flumes and appurtenances of acequias and community ditches in the state through the interstate stream commission 90/10 match program provided that 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) may be used for engineering services for approved acequia or community ditch projects. [~~The state engineer shall consult with the New Mexico acequia commission prior to implementing this program in fiscal year 2019.~~] *LINE-ITEM VETO*

The interstate stream commission's authority to make loans for irrigation improvements includes five hundred thousand dollars (\$500,000) for loans to acequia, irrigation and conservancy districts and five hundred thousand dollars (\$500,000) for loans to irrigation districts, conservancy districts and soil and water conservation districts for re-loan to farmers for implementation of water conservation improvements.

The interstate stream commission's authority to make loans from the New Mexico irrigation works construction fund includes two million dollars (\$2,000,000) for irrigation districts, acequias, conservancy districts and soil and water conservation districts for purchase and installation of meters and measuring equipment. The maximum loan term is five years.

Performance measures:

(a) Outcome: Cumulative state-line delivery credit per the Pecos river

compact and amended decree at the end of the calendar year,

in acre-feet >0

(b) Outcome: Cumulative state-line delivery credit per the Rio Grande

compact at the end of the calendar year, in acre-feet >0

(3) Litigation and adjudication:

The purpose of the litigation and adjudication program is to obtain a judicial determination and definition of water rights within each stream system and underground basin to effectively perform water rights administration and meet interstate stream obligations.

Appropriations:

(a) Personal services and

|                   |         |       |         |         |
|-------------------|---------|-------|---------|---------|
| employee benefits | 1,957.2 | 768.8 | 1,924.1 | 4,650.1 |
|-------------------|---------|-------|---------|---------|

(b) Contractual services

|       |         |         |
|-------|---------|---------|
| 620.0 | 1,115.8 | 1,735.8 |
|-------|---------|---------|

(c) Other 214.2 121.8

336.0

(d) Other financing uses

|       |       |
|-------|-------|
| 300.7 | 300.7 |
|-------|-------|

The internal service funds/interagency transfers appropriations to the litigation and adjudication program of the state engineer include two million five hundred forty-seven thousand eight hundred dollars

(\$2,547,800) from the New Mexico irrigation works construction fund and six hundred thirteen thousand nine hundred dollars (\$613,900) from the improvement of the Rio Grande income fund.

The other state funds appropriations to the litigation and adjudication program of the state engineer include one million eight hundred seventy-nine thousand six hundred dollars (\$1,879,600) from the water project fund pursuant to Section 72-4A-9 NMSA 1978.

Performance measures:

(a) Outcome: Number of offers to defendants in adjudications 200

(b) Outcome: Percent of all water rights with judicial determinations 70%

(4) Program support:

The purpose of program support is to provide necessary administrative support to the agency programs so they may be successful in reaching their goals and objectives.

Appropriations:

|     |                       |         |       |         |
|-----|-----------------------|---------|-------|---------|
| (a) | Personal services and |         |       |         |
|     | employee benefits     | 3,300.6 |       | 3,300.6 |
| (b) | Contractual services  |         | 241.0 | 241.0   |
| (c) | Other                 | 29.5    | 768.1 | 797.6   |

The internal service funds/interagency transfers appropriations to program support of the state engineer include eight hundred nine thousand one hundred dollars (\$809,100) from the New Mexico irrigation works construction fund and two hundred thousand dollars (\$200,000) from the improvement of Rio Grande income fund.

Subtotal 38,505.0

TOTAL AGRICULTURE, ENERGY AND

NATURAL RESOURCES 68,855.1 78,867.1 19,508.8 39,855.2  
207,086.2

**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<br>employee benefits | 497.4 |       | 497.4 |
| (b) | Contractual services                       | 107.2 |       | 107.2 |
| (c) | Other                                      | 124.5 | 124.5 |       |
|     | Subtotal                                   |       | 729.1 |       |

**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<br>employee benefits |       | 1,118.0 | 1,118.0 |
| (b) | Contractual services                       | 319.4 | 1,419.4 | 1,738.8 |
| (c) | Other                                      | 291.3 | 291.3   |         |
| (d) | Other financing uses                       |       | 116.5   | 116.5   |

The general fund appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons includes three hundred thousand dollars (\$300,000) for deaf and deaf-blind support service provider programs.

The internal service funds/interagency transfers appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the other financing uses category includes ninety-one thousand five hundred dollars (\$91,500) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide deaf and hard-of-hearing rehabilitation services and twenty-five thousand dollars (\$25,000) to transfer to the signed language interpreting practices board of the regulation and licensing department for interpreter licensure services.

Performance measures:

|             |   |       |
|-------------|---|-------|
| (a) Output: | Number of accessible technology equipment distributions | 1,070 |
|-------------|---|-------|

Subtotal 3,264.6

**MARTIN LUTHER KING, JR. COMMISSION:**

The purpose of the Martin Luther King, Jr. commission is to promote Martin Luther King, Jr.'s nonviolent principles and philosophy to the people of New Mexico through remembrance, celebration and action so that everyone gets involved in making a difference toward the improvement of interracial cooperation and reduction of youth violence in our communities.

Appropriations:

|     |                       |       |       |
|-----|-----------------------|-------|-------|
| (a) | Personal services and |       |       |
|     | employee benefits     | 227.7 | 227.7 |
| (b) | Contractual services  | 22.1  | 22.1  |
| (c) | Other                 | 98.3  | 98.3  |
|     | Subtotal              |       | 348.1 |

**COMMISSION FOR THE BLIND:**

(1) Blind services:

The purpose of the blind services program is to assist blind or visually impaired citizens of New Mexico to achieve economic and social equality so they can have independence based on their personal interests and abilities.

Appropriations:

|     |                       |         |         |         |         |
|-----|-----------------------|---------|---------|---------|---------|
| (a) | Personal services and |         |         |         |         |
|     | employee benefits     | 1,030.7 | 92.9    | 3,886.8 | 5,010.4 |
| (b) | Contractual services  | 76.0    | 18.6    | 104.0   | 198.6   |
| (c) | Other                 | 732.1   | 3,553.2 | 335.0   | 1,614.4 |
|     | Other financing uses  |         | 100.0   |         | 100.0   |

The general fund appropriation to the blind services program of the commission for the blind in the other financing uses category includes one hundred thousand dollars (\$100,000) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide rehabilitation services for the disabled.

The internal service funds/interagency transfers appropriation to the blind services program of the commission for the blind includes two hundred thousand dollars (\$200,000) from the division of vocational rehabilitation to provide services to the blind or visually impaired citizens of New Mexico.





Appropriations:

|     |                       |         |         |         |
|-----|-----------------------|---------|---------|---------|
| (a) | Personal services and |         |         |         |
|     | employee benefits     | 1,235.2 | 1,010.0 | 1,030.3 |
|     |                       | 3,275.5 |         |         |
| (b) | Contractual services  | 91.1    | 652.5   | 743.6   |
| (c) | Other                 | 194.6   | 322.4   | 517.0   |

Performance measures:

- (a) Quality: Percent of calls to the aging and disability resource center answered by a live operator 85%
- (b) Outcome: Percent of ombudsman complaints resolved within sixty days 99%
- (c) Outcome: Percent of residents who remained in the community six months following a nursing home care transition 90%

(2) Aging network:

The purpose of the aging network program is to provide supportive social and nutrition services for older individuals and people 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     | 1,103.6  | 34.9 | 1,138.5  |
| (b) | Contractual services  | 621.2    | 10.0 | 631.2    |
| (c) | Other                 | 24,248.9 | 70.9 | 10,761.2 |
|     |                       |          |      | 35,081.0 |

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 2019 from appropriations made from other state funds for the conference on aging shall not revert.

Performance measures:

- (a) Outcome: Percent of older New Mexicans whose food insecurity is alleviated by meals received through the aging network 95%
- (b) Outcome: Number of hours of caregiver support provided 423,000
- (c) Output: Number of hours of service provided by senior volunteers, statewide 1,700,000

(3) Adult protective services:

The purpose of the adult protective services program is to investigate allegations of abuse, neglect and exploitation of seniors and adults with disabilities and provide in-home support services to adults at high risk of repeat neglect.

Appropriations:

- (a) Personal services and employee benefits 8,093.1 8,093.1
- (b) Contractual services 1,285.2 2,498.6  
3,783.8
- (c) Other 1,381.8 1,381.8

Performance measures:

- (a) Output: Number of adults who receive home care or adult day services as a result of an investigation of abuse, neglect or exploitation 1,500
- (b) Outcome: Percent of emergency or priority one investigations in which a caseworker makes initial face-to-face contact with the alleged victim within prescribed timeframes >99%

(4) Program support:

The purpose of program support is to provide clerical, record-keeping and administrative support in the areas of personnel, budget, procurement and contracting to agency staff, outside contractors and external control agencies to implement and manage programs.

Appropriations:

|     |                       |         |          |         |
|-----|-----------------------|---------|----------|---------|
| (a) | Personal services and |         |          |         |
|     | employee benefits     | 2,612.3 | 345.5    | 2,957.8 |
| (b) | Contractual services  | 136.5   |          | 136.5   |
| (c) | Other                 | 3,395.2 | 3,395.2  |         |
|     | Subtotal              |         | 61,135.0 |         |

**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     | 4,899.2   | 7,421.5  | 12,320.7  |             |
| (b) | Contractual services  | 12,751.7  | 1,655.3  | 759.9     | 44,968.9    |
|     | 60,135.8              |           |          |           |             |
| (c) | Other                 | 829,895.4 | 60,573.0 | 191,577.0 | 4,104,881.7 |
|     |                       |           |          |           | 5,186,927.1 |

The appropriations to the medical assistance program of the human services department assume the state will receive an enhanced federal medical assistance percentage rate for those enrolled in the new adult category through fiscal year 2019 as provided for in the federal Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010. Should the federal government reduce or rescind the federal medical assistance percentage rates established by the federal Patient Protection and Affordable Care Act, the human services department shall reduce or rescind eligibility for the new adult category.

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include one million two hundred fifty-five thousand four hundred dollars (\$1,255,400) from the tobacco settlement program fund for the breast and cervical cancer treatment program and seven million sixty-three thousand nine hundred dollars (\$7,063,900) from the tobacco settlement program fund for medicaid programs.

Notwithstanding the provisions of Section 27-10-3 NMSA 1978, the internal service funds/interagency transfers appropriations to the medical assistance program of the human services

department include twenty-six million nine hundred thirty-six thousand dollars (\$26,936,000) from the county-supported medicaid fund.

The general fund appropriation to the medical assistance program of the human services department in the other category includes one million four hundred thousand dollars (\$1,400,000) to support medicaid rate adjustments for nursing facilities, five hundred thousand dollars (\$500,000) to support medicaid rate adjustments for primary care providers and one hundred thousand dollars (\$100,000) to support medicaid coverage for autism spectrum disorder.

Performance measures:

- (a) Outcome: Percent of children ages two to twenty years enrolled in medicaid managed care who had at least one dental visit during the measurement year 67%
- (b) Explanatory: Percent of infants in medicaid managed care who had six or more well-child visits with a primary care physician before the age of fifteen months
- (c) Outcome: Average percent of children and youth ages twelve months to nineteen years in medicaid managed care who received one or more well-child visits with a primary care physician during the measurement year 88%
- (d) Outcome: Percent of hospital readmissions for adults in medicaid managed care, ages eighteen and over, within thirty days of discharge <10%
- (e) Outcome: Rate of per capita use of emergency room categorized as non-emergent care 0.25

(2) Medicaid behavioral health:

The purpose of the medicaid behavioral health program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost behavioral health care.

Appropriations:

|     |       |           |           |           |
|-----|-------|-----------|-----------|-----------|
| (a) | Other | 101,214.0 | 401,071.0 | 502,285.0 |
|-----|-------|-----------|-----------|-----------|

The general fund appropriation to the medicaid behavioral health program of the human services department in the other category includes two million three hundred thousand dollars (\$2,300,000) to support medicaid rate adjustments for behavioral health providers.

Performance measures:

(a) Outcome: Percent of readmissions to same level of care or higher for children or youth discharged from residential treatment centers and inpatient care 5%

(b) Output: Number of individuals served annually in substance abuse or mental health programs administered through the behavioral health collaborative and medicaid programs 165,000

(3) Income support:

The purpose of the income support program is to provide cash assistance and supportive services to eligible low-income families so they can achieve self-sufficiency. Eligibility requirements are established by state law within broad federal statutory guidelines.

Appropriations:

|     |   |          |         |           |           |
|-----|---|----------|---------|-----------|-----------|
| (a) | Personal services and employee benefits | 20,000.1 | 453.6   | 37,193.9  | 57,647.6  |
| (b) | Contractual services                    | 39,641.2 | 5,154.3 | 75.8      | 34,411.1  |
| (c) | Other                                   | 18,771.0 | 166.1   | 853,017.0 | 871,954.1 |

The federal funds appropriations to the income support program of the human services department include eleven million five hundred seven thousand seven hundred dollars (\$11,507,700) from the federal temporary assistance for needy families block grant for administration of the New Mexico Works Act.

The 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-one million forty-five thousand six hundred dollars (\$51,045,600) from the federal temporary assistance for needy families block grant to provide cash assistance grants to participants as defined in the New Mexico Works Act, including wage subsidies for participants, two clothing allowances per year, diversion payments and state-funded payments to aliens.

The federal funds appropriations to the income support program of the human services department include nineteen million six hundred fifty-one thousand dollars (\$19,651,000) from the federal temporary assistance for needy families block grant for job training and placement and job-related transportation services, employment-related costs and a transitional employment program. The funds for the transitional employment program and the wage subsidy program may be used interchangeably.

The federal funds appropriations to the income support program of the human services department include thirty-three million five hundred twenty-seven thousand five hundred dollars (\$33,527,500) from the federal temporary assistance for needy families block grant for transfer to the children, youth and families department for childcare programs, five million dollars (\$5,000,000) for home-visiting programs, fourteen million one hundred thousand dollars (\$14,100,000) for prekindergarten and nine hundred thousand dollars (\$900,000) for a ~~[pilot]~~ supportive housing project. *LINE-ITEM VETO*

The federal funds appropriations to the income support program of the human services department include three million five hundred thousand dollars (\$3,500,000) from the federal temporary assistance for needy families block grant for transfer to the public education department for prekindergarten and two hundred thousand dollars (\$200,000) for the graduation, reality and dual-role skills program.

~~[The federal funds appropriations to the income support program of the human services department include one million dollars (\$1,000,000) from the federal temporary assistance for needy families block grant for the employment retention and advancement bonus incentive program.] *LINE-ITEM VETO*~~

The appropriations to the income support program of the human services department include seven million two hundred twenty thousand dollars (\$7,220,000) from the general fund and three million eighty thousand three hundred dollars (\$3,080,300) from federal funds for general assistance.

Any unexpended balances remaining at the end of fiscal year 2019 from the other state funds appropriations derived from reimbursements received from the social security administration for the general assistance program shall not revert.

Performance measures:

(a) Outcome: Percent of parent participants who meet temporary

assistance for needy families federal work participation

requirements 52%

(b) Outcome: Percent of temporary assistance for needy families

two-parent recipients meeting federal work participation

requirements 62%

(c) Outcome: Percent of eligible children in families with incomes of

one hundred thirty percent of the federal poverty level

participating in the supplemental nutrition assistance

program 93%

(4) Behavioral health services:

The purpose of the behavioral health services program is to lead and oversee the provision of an integrated and comprehensive behavioral health prevention and treatment system so the program fosters recovery and supports the health and resilience of all New Mexicans.

Appropriations:

(a) Personal services and

|                   |         |         |         |
|-------------------|---------|---------|---------|
| employee benefits | 1,788.4 | 1,089.6 | 2,878.0 |
|-------------------|---------|---------|---------|

|                          |          |          |
|--------------------------|----------|----------|
| (b) Contractual services | 34,072.1 | 20,760.0 |
|                          | 54,832.1 |          |

|           |         |       |         |
|-----------|---------|-------|---------|
| (c) Other | 1,179.2 | 718.5 | 1,897.7 |
|-----------|---------|-------|---------|

Performance measures:

(a) Outcome: Percent of individuals discharged from inpatient facilities

who receive follow-up services at thirty days 70%

(b) Outcome: Percent of people with a diagnosis of alcohol or drug

dependency who initiated treatment and received two or more

additional services within thirty days of the initial visit 25%

(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 | 4,785.5  | 1,889.4 | 12,724.3 |
|                   | 19,399.2 |         |          |

|                          |         |       |         |
|--------------------------|---------|-------|---------|
| (b) Contractual services | 1,630.2 | 643.6 | 4,334.2 |
|                          | 6,608.0 |       |         |

|           |         |       |         |         |
|-----------|---------|-------|---------|---------|
| (c) Other | 1,224.4 | 483.4 | 3,255.3 | 4,963.1 |
|-----------|---------|-------|---------|---------|



Performance measures:

- (a) Explanatory: Amount of child support collected, in millions
- (b) Outcome: Percent of current support owed that is collected 62%
- (c) Outcome: Percent of cases with support orders 85%
- (d) Outcome: Percent of cases having support arrears due for which  
arrears are collected 67%

(6) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program and to assist it in achieving its programmatic goals.

Appropriations:

- (a) Personal services and  
employee benefits 3,809.9 571.1 12,910.8 17,291.8
- (b) Contractual services 6,894.5 25.7 13,237.0  
20,157.2
- (c) Other 5,051.1 114.6 10,660.3 15,826.0

The general fund appropriations to program support of the human services department include an additional four hundred forty-five thousand nine hundred dollars (\$445,900) for contract maintenance and operations of the automated system program and eligibility network information technology system [~~contingent on providing data analytic reports to the legislative finance committee in fiscal year 2019.~~]  
*LINE-ITEM VETO*

Subtotal 6,874,764.6

**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 250.0 1,086.1 5,677.3 7,013.4

|     |                      |       |         |       |         |
|-----|----------------------|-------|---------|-------|---------|
| (b) | Contractual services |       | 72.5    | 274.6 | 347.1   |
| (c) | Other                | 241.4 | 1,022.0 |       | 1,263.4 |

The internal service funds/interagency transfers appropriations to the unemployment insurance program of the workforce solutions department include six hundred fifty thousand dollars (\$650,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

- (a) Output: Percent of eligible unemployment insurance claims issued a determination within twenty-one days from the date of claim 89%
- (b) Output: Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a new unemployment insurance claim, in minutes 20
- (c) Output: Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a weekly certification, in minutes 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 | 892.5 | 488.5   | 300.0 | 1,681.0 |
| (b) | Contractual services                    | 1.1   |         | 8.8   | 9.9     |
| (c) | Other                                   | 463.8 | 1,179.1 |       | 1,642.9 |

The internal service funds/interagency transfers appropriations to the labor relations program of the workforce solutions department include six hundred thousand dollars (\$600,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

- (a) Output: Average number of days to investigate and issue a

determination on a charge of discrimination 200

(b) Output: Number of compliance reviews and quality assessments on  
registered apprenticeship programs 6

(3) Workforce technology:

The purpose of the workforce technology program is to provide and maintain customer-focused, effective and innovative information technology services for the department and its service providers.

Appropriations:

|  |         |       |         |         |
|--|---------|-------|---------|---------|
| (a) Personal services and<br>employee benefits | 263.0   | 182.6 | 2,884.3 | 3,329.9 |
| (b) Contractual services                       | 4,900.4 |       | 566.4   | 1,333.5 |
|  | 6,800.3 |       |         |         |
| (c) Other                                      | 1,670.2 | 45.0  | 595.2   | 2,310.4 |

Performance measures:

(a) Outcome: Percent of time unemployment insurance benefits are paid  
within three business days of claimant certification 100%

(4) Employment services:

The purpose of the employment services program is to provide standardized business solution strategies and labor market information through the New Mexico public workforce system that is responsive to the needs of New Mexico businesses.

Appropriations:

|  |       |         |         |         |
|--|-------|---------|---------|---------|
| (a) Personal services and<br>employee benefits | 102.0 |         | 6,229.2 | 6,331.2 |
| (b) Contractual services                       | 10.5  |         | 1,011.2 | 1,021.7 |
| (c) Other                                      | 69.2  | 4,788.9 | 4,858.1 |         |

Performance measures:

(a) Outcome: Percent of unemployed individuals employed after receiving

Wagner-Peyser employment services 56%

(b) Outcome: Average six-month earnings of individuals entering employment after receiving Wagner-Peyser employment services \$13,600

(5) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program to achieve organizational goals and objectives.

Appropriations:

|     |   |       |       |          |          |
|-----|---|-------|-------|----------|----------|
| (a) | Personal services and employee benefits | 388.9 | 325.6 | 5,471.1  | 6,185.6  |
| (b) | Contractual services                    | 19.6  | 32.8  | 652.5    | 704.9    |
| (c) | Other                                   | 51.4  | 71.2  | 15,665.2 | 15,787.8 |

Performance measures:

(a) Output: Number of adult and dislocated workers receiving Workforce Investment Act or Workforce Innovation and Opportunity Act services as administered and directed by the local area workforce board 2,900

(b) Outcome: Percent of individuals who enter employment after receiving Workforce Investment Act or Workforce Innovation and Opportunity Act services as administered and directed by the local area workforce board 70%

(c) Output: Percent of individuals who retain employment after receiving Workforce Investment Act or Workforce Innovation and Opportunity Act services as administered and directed by the local area workforce board 89%

Subtotal 59,287.6

**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<br>employee benefits | 8,199.4 | 8,199.4 |
| (b) | Contractual services                       | 372.1   | 372.1   |
| (c) | Other 1,307.8                              | 1,307.8 |         |
| (d) | Other financing uses                       | 1,250.0 | 1,250.0 |

The other state funds appropriation to the workers' compensation administration program of the workers' compensation administration in the other financing uses category includes six hundred fifty thousand dollars (\$650,000) 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 determined to be in compliance with insurance requirements of the Workers' Compensation Act after initial investigations 96%

(2) Uninsured employers' fund:

Appropriations:

|     |  |       |       |
|-----|--|-------|-------|
| (a) | Personal services and<br>employee benefits | 331.8 | 331.8 |
|-----|--|-------|-------|

|     |                      |       |          |       |
|-----|----------------------|-------|----------|-------|
| (b) | Contractual services |       | 100.0    | 100.0 |
| (c) | Other                | 461.1 | 461.1    |       |
|     | Subtotal             |       | 12,022.2 |       |

**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<br>employee benefits |         | 10,341.0 | 10,341.0 |
| (b) | Contractual services                       |         | 3,346.4  | 3,346.4  |
| (c) | Other                                      | 4,998.6 | 91.5     | 9,301.9  |
|     |  |         |          | 14,392.0 |
| (d) | Other financing uses                       |         | 100.0    | 100.0    |
|     |  |         |          | 200.0    |

The internal service funds/interagency transfers appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes ninety-one thousand five hundred dollars (\$91,500) to match with federal funds to support and enhance deaf and hard-of-hearing rehabilitation services.

The internal service funds/interagency transfers and the federal funds appropriations to the rehabilitation services program of the division of vocational rehabilitation in the other financing uses category are for the blind services program of the commission for the blind to provide services to the blind or visually impaired citizens of New Mexico.

Performance measures:

- (a) Outcome: Number of clients achieving suitable employment for a minimum of ninety days 860
- (b) Outcome: Percent of clients achieving suitable employment outcomes of all cases closed after receiving planned services 45%

(2) Independent living services:

The purpose of the independent living services program is to increase access for individuals with disabilities to technologies and services needed for various applications in learning, working and home management.

Appropriations:

|     |                       |       |     |       |         |
|-----|-----------------------|-------|-----|-------|---------|
| (a) | Personal services and |       |     |       |         |
|     | employee benefits     | 74.8  |     | 74.8  |         |
| (b) | Other                 | 574.2 | 6.1 | 750.4 | 1,330.7 |
| (c) | Other financing uses  |       |     | 55.0  | 55.0    |

Performance measures:

- (a) Output: Number of independent living plans developed 550
- (b) Output: Number of individuals served for independent living 610

(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     |         |  | 6,631.2 | 6,631.2 |
| (b) | Contractual services  |         |  | 3,602.7 | 3,602.7 |
| (c) | Other                 | 4,473.6 |  | 4,473.6 |         |

Performance measures:

- (a) Efficiency: Average number of days for completing an initial disability claim 100

(4) Administrative services:

The purpose of the administration services program is to provide leadership, policy development, financial analysis, budgetary control, information technology services, administrative support and legal services to the division of vocational rehabilitation. The administration program function is to ensure the division achieves a high level of accountability and excellence in services provided to the people of New Mexico.

Appropriations:

|     |  |         |         |         |
|-----|--|---------|---------|---------|
| (a) | Personal services and<br>employee benefits |         | 3,226.7 | 3,226.7 |
| (b) | Contractual services                       |         | 868.6   | 868.6   |
| (c) | Other                                      | 1,704.7 | 1,704.7 |         |

Any unexpended balances in the division of vocational rehabilitation remaining at the end of fiscal year 2019 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2020.

Subtotal 50,247.4

**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<br>employee benefits | 698.6       | 254.8 | 953.4 |
| (b) | Contractual services                       | 117.6       | 81.8  | 199.4 |
| (c) | Other                                      | 156.8 123.5 | 157.2 | 437.5 |

Performance measures:

(a) Outcome: Percent of requested architectural plan reviews and site

inspections completed 99%

(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<br>employee benefits | 69.1 |         | 69.1 |
| (b) | Contractual services                       | 70.2 |         | 70.2 |
| (c) | Other                                      | 55.7 | 55.7    |      |
|     | Subtotal                                   |      | 1,785.3 |      |

**DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:**

(1) Developmental disabilities planning council:

The purpose of the developmental disabilities planning council program is to provide and produce opportunities for persons with disabilities so they may realize their dreams and potential and become integrated members of society.

Appropriations:

|     |  |       |       |       |       |
|-----|--|-------|-------|-------|-------|
| (a) | Personal services and<br>employee benefits | 366.4 | 207.6 | 574.0 |       |
| (b) | Contractual services                       | 16.7  | 288.9 | 305.6 |       |
| (c) | Other                                      | 300.6 | 75.0  | 0.5   | 376.1 |

(2) Office of guardianship:

The purpose of the office of guardianship program is to enter into, monitor and enforce guardianship contracts for income-eligible persons and to help file, investigate and resolve complaints about guardianship services provided by contractors to maintain the dignity, safety and security of the indigent and incapacitated adults of the state.

Appropriations:

|     |  |         |       |       |         |
|-----|--|---------|-------|-------|---------|
| (a) | Personal services and<br>employee benefits | 586.9   |       | 586.9 |         |
| (b) | Contractual services                       | 3,721.4 | 260.0 | 550.0 | 4,531.4 |
| (c) | Other                                      | 125.7   |       | 125.7 |         |

Any unexpended balances in the office of guardianship program of the developmental disabilities planning council remaining at the end of fiscal year 2019 from appropriations made from the general fund and internal service funds/interagency transfers shall not revert.

Performance measures:

(a) Outcome: Percent of protected persons served by court-appointed guardians in the least restrictive environment as evidenced by annual technical compliance reviews 70%

(b) Outcome: Percent of complaints and grievances processed within the state rule guidelines 100%

~~\_\_\_\_\_ (c) Outcome: \_\_\_\_\_ Number of guardianship compliance site visits conducted  
20~~

~~(d) Explanatory: \_\_\_\_\_ Number of guardianship investigations completed] LINE-  
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Subtotal 6,499.7

**MINERS' HOSPITAL OF NEW MEXICO:**

(1) Healthcare:

The purpose of the healthcare program is to provide quality acute care, long-term care and related health services to the beneficiaries of the miners' trust fund of New Mexico and the people of the region so they can maintain optimal health and quality of life.

Appropriations:

|     |                       |          |         |               |
|-----|-----------------------|----------|---------|---------------|
| (a) | Personal services and |          |         |               |
|     | employee benefits     | 17,684.9 | 300.0   | 17,984.9      |
| (b) | Contractual services  | 4,100.0  |         | 4,100.0       |
| (c) | Other                 | 2,748.3  | 6,000.0 | 491.7 9,240.0 |

~~[The other state funds appropriation to the healthcare program of the miners' hospital of New Mexico in the other category includes up to one million forty thousand dollars (\$1,040,000) from patient revenue to transfer to the medical assistance program of the human services department for the state share of medical expenditures.] LINE-ITEM VETO~~

The internal service funds/interagency transfers appropriations to the healthcare program of miners' hospital of New Mexico include six million three hundred thousand dollars (\$6,300,000) from the miners' trust fund.

Performance measures:

(a) Quality: Percent of patients readmitted to the hospital within thirty days with the same or similar diagnosis <2%

(b) Quality: Percent of emergency room patients returning to the emergency room with same or similar diagnosis within seventy-two hours of their initial visit <1%

Subtotal 31,324.9

**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         | 21,179.7 | 3,251.6  | 2,990.0  | 23,564.3 |
|                           | 50,985.6 |          |          |          |
| (b) Contractual services  | 15,367.1 | 5,049.5  | 11,401.5 |          |
|                           | 10,538.8 | 42,356.9 |          |          |
| (c) Other                 | 12,287.4 | 32,902.9 | 245.1    | 31,318.5 |
|                           |          |          |          | 76,753.9 |
| (d) Other financing uses  | 462.3    |          |          | 462.3    |

The general fund appropriations to the public health program of the department of health include two hundred fifty thousand dollars (\$250,000) to purchase long-acting reversible contraceptive devices to improve same day access and for long-acting reversible contraceptive provider training.

The internal service funds/interagency transfers appropriations to the public health program of the department of health include five million four hundred thirty-five thousand two hundred dollars (\$5,435,200) from the tobacco settlement program fund for smoking cessation and prevention programs, seven hundred fifteen thousand five hundred dollars (\$715,500) from the tobacco settlement program fund for diabetes prevention and control services, two hundred ninety-three thousand dollars (\$293,000)

from the tobacco settlement program fund for HIV/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.

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 2019 shall not revert.

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) for teen mental illness and suicide prevention classes.

Performance measures:

- (a) Explanatory: Percent of third-grade children considered obese
- (b) Explanatory: Numbers of births to teens ages fifteen to nineteen per one thousand females ages fifteen to nineteen
- (c) Outcome: Number of successful overdose reversals per client enrolled in the New Mexico department of health harm reduction program  $\geq 0.25$
- (d) Outcome: Percent of preschoolers nineteen to thirty-five months indicated as being fully immunized  $\geq 65\%$

(2) Epidemiology and response:

The purpose of the epidemiology and response program is to monitor health, provide health information, prevent disease and injury, promote health and healthy behaviors, respond to public health events, prepare for health emergencies and provide emergency medical and vital registration services to New Mexicans.

Appropriations:

|                           |         |       |       |         |          |
|---------------------------|---------|-------|-------|---------|----------|
| (a) Personal services and |         |       |       |         |          |
| employee benefits         | 4,138.2 | 254.1 | 432.1 | 9,076.8 | 13,901.2 |
| (b) Contractual services  | 1,173.6 | 249.9 | 84.9  | 5,003.0 |          |
|                           | 6,511.4 |       |       |         |          |
| (c) Other                 | 4,541.8 | 108.3 | 79.2  | 1,703.1 | 6,432.4  |

Performance measures:

(a) Outcome: Percent of vital records customers satisfied with the service they received  $\geq 95\%$

(b) Explanatory: Drug overdose death rate per one hundred thousand population

(c) Outcome: Percent of retail pharmacies that dispense naloxone  $\geq 67\%$

(d) Outcome: Percent of opioid patients also prescribed benzodiazepines  $\leq 10\%$

(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 | 5,162.0 | 1,238.7 | 103.0 | 1,513.0 |
|                   | 8,016.7 |         |       |         |

|                          |       |      |     |      |       |
|--------------------------|-------|------|-----|------|-------|
| (b) Contractual services | 260.9 | 26.3 | 5.0 | 25.9 | 318.1 |
|--------------------------|-------|------|-----|------|-------|

|           |         |       |         |         |         |
|-----------|---------|-------|---------|---------|---------|
| (c) Other | 2,074.7 | 183.6 | 1,140.0 | 1,307.6 | 4,705.9 |
|-----------|---------|-------|---------|---------|---------|

(4) Facilities management:

The purpose of the facilities management program is to provide oversight for department of health facilities that provide health and behavioral healthcare services, including mental health, substance abuse, nursing home and rehabilitation programs in both facility- and community-based settings and serve as the safety net for the citizens of New Mexico.

Appropriations:

(a) Personal services and

|                   |          |          |       |         |
|-------------------|----------|----------|-------|---------|
| employee benefits | 45,681.1 | 41,704.4 | 970.9 | 4,790.9 |
|                   | 93,147.3 |          |       |         |

|                          |          |         |  |       |
|--------------------------|----------|---------|--|-------|
| (b) Contractual services | 3,118.4  | 8,088.7 |  | 107.7 |
|                          | 11,314.8 |         |  |       |

(c) Other 9,676.3 11,104.3 211.1 104.8 21,096.5

Performance measures:

(a) Efficiency: Percent of eligible third-party revenue collected at all agency facilities  $\geq 93\%$

~~[(b) Efficiency: Percent of operational beds occupied  $\geq 90\%$ ]~~

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(c) Quality: Percent of long-term care residents experiencing one or more falls with major injury  $\leq 0.5\%$

(d) Quality: Number of significant medication errors per one hundred patients  $\leq 2$

(5) Developmental disabilities support:

The purpose of the developmental disabilities support program is to administer a statewide system of community-based services and support to improve the quality of life and increase the independence and interdependence of individuals with developmental disabilities and children with or at risk for developmental delay or disability and their families.

Appropriations:

|     |                       |          |           |         |           |
|-----|-----------------------|----------|-----------|---------|-----------|
| (a) | Personal services and |          |           |         |           |
|     | employee benefits     | 7,150.2  | 6,150.1   | 577.3   | 13,877.6  |
| (b) | Contractual services  | 8,420.0  | 985.0     | 1,479.5 | 1,161.2   |
|     |                       | 12,045.7 |           |         |           |
| (c) | Other                 | 21,729.8 | 400.0     | 1,415.4 | 1,080.7   |
|     |                       |          |           |         | 24,625.9  |
| (d) | Other financing uses  |          | 117,294.3 |         | 117,294.3 |

The general fund appropriation to the developmental disabilities support program of the department of health in the other financing uses category includes an additional two million dollars (\$2,000,000) for the state match of the federal medical assistance percentage to increase the number of allocated slots for home- and community-based medicaid waiver services.

Performance measures:

(a) Explanatory: Number of individuals receiving developmental disabilities

waiver services

(b) Explanatory: Number of individuals on the developmental disabilities

waiver waiting list

(6) Health certification, licensing and oversight:

The purpose of the health certification, licensing and oversight program is to provide health facility licensing and certification surveys, community-based oversight and contract compliance surveys and a statewide incident management system so that people in New Mexico have access to quality health care and that vulnerable populations are safe from abuse, neglect and exploitation.

Appropriations:

(a) Personal services and

|                   |          |         |         |         |
|-------------------|----------|---------|---------|---------|
| employee benefits | 4,249.1  | 1,523.4 | 3,728.8 | 1,803.3 |
|                   | 11,304.6 |         |         |         |

(b) Contractual services 253.2 282.9 113.2 649.3

(c) Other 436.9 111.0 516.9 593.7 1,658.5

Performance measures:

(a) Outcome: Abuse rate for developmental disability waiver and mi via

waiver clients  $\leq 8\%$

(b) Outcome: Re-abuse rate for developmental disabilities waiver and mi

via waiver clients  $\leq 16\%$

(7) Medical cannabis:

The purpose of the medical cannabis program is to provide qualified patients with the means to legally and beneficially consume medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments and to regulate a system of production and distribution of medical cannabis to ensure an adequate supply.

Appropriations:

(a) Personal services and

|                   |         |         |
|-------------------|---------|---------|
| employee benefits | 1,576.6 | 1,576.6 |
|-------------------|---------|---------|

(b) Contractual services 423.5 423.5

|     |       |         |  |         |
|-----|-------|---------|--|---------|
| (c) | Other | 1,106.8 |  | 1,106.8 |
|-----|-------|---------|--|---------|

(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     | 4,846.9 | 668.4 | 6,262.3   | 11,777.6 |
| (b) | Contractual services  | 144.7   | 618.8 | 414.6     | 1,178.1  |
| (c) | Other                 | 496.5   | 60.5  | 630.7     | 1,187.7  |
|     | Subtotal              |         |       | 534,709.2 |          |

**DEPARTMENT OF ENVIRONMENT:**

(1) Resource protection:

The purpose of the resource protection program is to monitor and provide regulatory oversight of the generation, storage, transportation and disposal of wastes in New Mexico. The program also oversees the investigation and cleanup of environmental contamination covered by the Resource Conservation and Recovery Act.

Appropriations:

|     |                       |         |         |         |         |
|-----|-----------------------|---------|---------|---------|---------|
| (a) | Personal services and |         |         |         |         |
|     | employee benefits     | 1,132.3 | 5,994.9 | 2,608.4 |         |
|     |                       | 9,735.6 |         |         |         |
| (b) | Contractual services  | 2.5     | 875.5   | 1,220.6 | 2,098.6 |
| (c) | Other                 | 230.3   | 1,186.1 | 461.9   | 1,878.3 |

Performance measures:

(a) Outcome: Percent of underground storage tank facilities in significant operational compliance with release prevention and release detection requirements 85%



(2) Water protection:

The purpose of the water protection program is to protect and preserve the ground, surface and drinking water resources of the state for present and future generations. The program also helps New Mexico communities develop sustainable and secure water, wastewater and solid waste infrastructure through funding, technical assistance and project oversight.

Appropriations:

(a) Personal services and

|                   |         |       |         |         |
|-------------------|---------|-------|---------|---------|
| employee benefits | 1,663.1 | 128.3 | 5,139.5 | 7,352.9 |
| 14,283.8          |         |       |         |         |

|                          |       |  |         |         |
|--------------------------|-------|--|---------|---------|
| (b) Contractual services | 374.5 |  | 2,306.4 | 2,887.7 |
| 5,568.6                  |       |  |         |         |

|           |       |     |       |         |         |
|-----------|-------|-----|-------|---------|---------|
| (c) Other | 140.5 | 1.3 | 677.4 | 2,062.5 | 2,881.7 |
|-----------|-------|-----|-------|---------|---------|

Performance measures:

(a) Output: Percent of facilities operating under a groundwater

discharge permit inspected each year 65%

(3) Environmental protection:

The purpose of the environmental protection program is to ensure New Mexicans breathe healthy air; to protect public health and the environment through specific programs that provide regulatory oversight of food service and food processing facilities, on-site treatment and disposal of liquid wastes, public swimming pools and baths and medical radiation and radiological technologist certification and to ensure every employee has safe and healthful working conditions.

Appropriations:

(a) Personal services and

|                   |         |  |         |         |
|-------------------|---------|--|---------|---------|
| employee benefits | 3,996.9 |  | 9,930.6 | 2,405.5 |
| 16,333.0          |         |  |         |         |

|                          |      |  |       |       |         |
|--------------------------|------|--|-------|-------|---------|
| (b) Contractual services | 13.0 |  | 810.8 | 634.8 | 1,458.6 |
|--------------------------|------|--|-------|-------|---------|

|           |         |  |         |         |         |
|-----------|---------|--|---------|---------|---------|
| (c) Other | 1,235.2 |  | 1,626.9 | 1,059.9 | 3,922.0 |
|-----------|---------|--|---------|---------|---------|

(4) Resource management:

The purpose of the resource management program is to provide overall leadership, administrative, legal and information management support to all programs within the department. This support allows the

department to operate in the most responsible, efficient and effective manner so the public can receive the information it needs to hold the department accountable.

Appropriations:

|     |                       |         |      |         |         |
|-----|-----------------------|---------|------|---------|---------|
| (a) | Personal services and |         |      |         |         |
|     | employee benefits     | 1,894.4 | 21.3 | 2,809.1 | 1,458.6 |
|     |                       | 6,183.4 |      |         |         |
| (b) | Contractual services  | 244.9   |      | 128.7   | 80.7    |
| (c) | Other                 | 344.9   | 3.7  | 250.8   | 408.0   |
|     |                       |         |      |         | 1,007.4 |

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                | 16,634.0 |           | 16,634.0 |          |
| (c) | Other financing uses |          | 30,895.0  |          | 30,895.0 |
|     | Subtotal             |          | 116,834.3 |          |          |

**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     | 247.5 | 28.3 |         | 275.8   |
| (b) | Contractual services  |       |      | 1,496.1 | 1,496.1 |

|           |      |         |
|-----------|------|---------|
| (c) Other | 19.6 | 19.6    |
| Subtotal  |      | 1,791.5 |

**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         | 2,982.9 | 112.0 | 3,094.9 |
| (b) Contractual services  | 255.5   |       | 255.5   |
| (c) Other                 | 538.0   | 208.0 | 746.0   |

Performance measures:

(a) Output: Number of businesses established by veterans with assistance provided by the veterans' business outreach center 14

(b) Outcome: Percent of eligible deceased veterans and family members interred in a regional state veterans' cemetery 10%

(2) Healthcare Coordination:

The purpose of the healthcare coordination program is to provide nursing and alzheimer's care services to veterans, surviving spouses, and gold star parents and to develop and coordinate veterans programs and outreach, including transitional living, housing and healthcare programs.

Appropriations:

|                           |      |         |         |          |
|---------------------------|------|---------|---------|----------|
| (a) Personal services and |      |         |         |          |
| employee benefits         | 19.0 | 6,633.5 | 4,267.6 | 10,920.1 |
| (b) Contractual services  |      | 1,319.6 |         | 1,319.6  |

(c) Other 2,164.3 2,164.3

Performance measures:

(a) Quality: Percent of long-term care residents experiencing facility  
acquired pressure injuries <2%

(b) Explanatory: Customer overall satisfaction

(c) Quality: Percent of long-term care residents experiencing one or  
more falls with major injury <4%

Subtotal 18,500.4

### **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<br>employee benefits | 49,698.5 | 1,490.5 | 51,189.0 |
| (b) Contractual services                       | 12,532.7 | 845.9   | 423.9    |
| (c) Other                                      | 5,858.4  | 26.0    | 72.4     |
|  |          |         | 5,956.8  |

Performance measures:

(a) Outcome: Percent of incidents in juvenile justice services  
facilities requiring use of force resulting in injury 1.5%

(b) Outcome: Recidivism rate for youth discharged from active field  
supervision 12%

(c) Outcome: Recidivism rate for youth discharged from commitment 34%

(d) Output: Number of physical assaults in juvenile justice facilities <300

(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 | 45,775.9 | 1,002.5 | 11,818.2 |
|                   | 58,596.6 |         |          |

|                          |          |       |       |         |
|--------------------------|----------|-------|-------|---------|
| (b) Contractual services | 14,290.5 | 592.2 | 900.0 | 9,256.5 |
|                          | 25,039.2 |       |       |         |

|           |          |         |       |          |          |
|-----------|----------|---------|-------|----------|----------|
| (c) Other | 34,307.2 | 1,643.2 | 194.0 | 31,773.3 | 67,917.7 |
|-----------|----------|---------|-------|----------|----------|

The internal service funds/interagency transfers appropriations to the protective services program of the children, youth and families department include nine hundred thousand dollars (\$900,000) from the temporary assistance for needy families block grant to New Mexico 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 five hundred thousand dollars (\$500,000) for statewide domestic violence services and training.

Performance measures:

(a) Outcome: Of children in foster care for more than eight days,

percent who achieve permanency within twelve months of

entry into foster care 42%

(b) Outcome: Maltreatment victimizations per one hundred thousand days

in foster care 8

(c) Output: Number of placement moves per one thousand days of care

provided to children who entered care during a rolling

twelve month period and stayed for more than eight days 3

(d) Output: Turnover rate for protective services workers 20%

(e) Outcome: Of children in foster care for twenty-four months at the

start of a twelve month period, percent who achieve permanency within that twelve months 32%

(f) Outcome: Of children in foster care for twelve to twenty-three months at the start of a twelve-month period, percent who achieve permanency within that twelve months 44%

(g) Outcome: Of children who were victims of a substantiated maltreatment report during a twelve-month period, percent who were victims of another substantiated maltreatment allegation within twelve months of their initial report 10%

(3) Early childhood services:

The purpose of the early childhood services program is to provide quality childcare, nutrition services, early childhood education and training to enhance the physical, social and emotional growth and development of children.

Appropriations:

|     |                       |          |          |          |           |
|-----|-----------------------|----------|----------|----------|-----------|
| (a) | Personal services and |          |          |          |           |
|     | employee benefits     | 3,247.0  |          | 6,593.1  | 9,840.1   |
| (b) | Contractual services  | 28,642.2 | 1,184.8  |          | 19,100.0  |
|     |                       | 10,527.2 | 59,454.2 |          |           |
| (c) | Other                 | 54,482.6 | 1,400.0  | 33,527.5 | 90,835.0  |
|     |                       |          |          |          | 180,245.1 |

The internal service funds/interagency transfers appropriations to the early childhood services program of the children, youth and families department include fifty-two million six hundred twenty-seven thousand five hundred dollars (\$52,627,500) from the federal temporary assistance for needy families block grant: thirty-three million five hundred twenty-seven thousand five hundred dollars (\$33,527,500) for child care, fourteen million one hundred thousand dollars (\$14,100,000) for prekindergarten and five million dollars (\$5,000,000) for home visiting.

Performance measures:

(a) Outcome: Percent of licensed childcare providers participating in high-quality programs 35%

(b) Outcome: Percent of parents participating in home visiting who demonstrate progress in practicing positive parent-child interactions 40%

(c) Outcome: Percent of children in children, youth and families department funded prekindergarten showing measurable progress on the school readiness fall-preschool assessment tool 93%

(4) Behavioral health services:

The purpose of the behavioral health services program is to provide coordination and management of behavioral health policy, programs and services for children.

Appropriations:

|   |          |       |         |
|---|----------|-------|---------|
| (a) Personal services and employee benefits | 4,694.6  | 285.3 | 4,979.9 |
| (b) Contractual services                    | 10,671.8 | 31.7  | 1,187.8 |
|   | 11,891.3 |       |         |
| (c) Other                                   | 383.4    | 16.8  | 400.2   |

Performance measures:

(a) Outcome: Percent of infants served by infant mental health teams with a team recommendation for unification who have not had additional referrals to protective services 92%

(b) Output: Percent of children, youth and families department involved children and youth in the estimated target population who are receiving services from community behavioral health clinicians 75%

(5) Program support:

The purpose of program support is to provide the direct services divisions with functional and administrative support so they may provide client services consistent with the department's mission and also support the development and professionalism of employees.

Appropriations:

|     |                       |         |  |         |           |
|-----|-----------------------|---------|--|---------|-----------|
| (a) | Personal services and |         |  |         |           |
|     | employee benefits     | 8,318.1 |  | 3,914.5 | 12,232.6  |
| (b) | Contractual services  | 1,062.5 |  | 57.8    | 426.4     |
|     |                       |         |  |         | 1,546.7   |
| (c) | Other                 | 3,651.7 |  | 1,706.2 | 5,357.9   |
|     | Subtotal              |         |  |         | 508,777.4 |

TOTAL HEALTH, HOSPITALS AND

|                |             |           |           |             |
|----------------|-------------|-----------|-----------|-------------|
| HUMAN SERVICES | 1,707,189.1 | 287,970.1 | 330,471.4 | 5,970,424.2 |
|                | 8,296,054.8 |           |           |             |

**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     | 3,387.2 |      | 6,347.8 | 9,735.0  |
| (b) | Contractual services  | 426.8   |      | 124.9   | 2,722.2  |
|     |                       |         |      |         | 3,273.9  |
| (c) | Other                 | 3,197.7 | 66.8 | 53.3    | 7,536.1  |
|     |                       |         |      |         | 10,853.9 |

Performance measures:

(a) Outcome: Percent of strength of the New Mexico national guard 98%

(b) Output: Number of New Mexico youth challenge academy cadets who



|   |          |
|---|----------|
| earn their high school equivalency annually | 140      |
| Subtotal                                    | 23,862.8 |

**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<br>employee benefits | 331.4 | 331.4 |
| (b) Contractual services                       | 7.8   | 7.8   |
| (c) Other                                      | 137.3 | 137.3 |

Performance measures:

(a) Efficiency: Percent of revocation hearings held within thirty days of a parolee's return to the corrections department 95%

|          |       |
|----------|-------|
| Subtotal | 476.5 |
|----------|-------|

**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                | 8.3  | 8.3 |
| Subtotal                 | 13.2 |     |

**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     | 95,033.1  | 12,742.1 | 970.2 | 108,745.4 |
| (b) | Contractual services  | 52,659.6  |          |       | 52,659.6  |
| (c) | Other                 | 109,652.7 | 4,884.5  | 109.0 | 114,646.2 |

The general fund appropriation to the inmate management and control program of the corrections department in the other category includes one million five hundred thousand dollars (\$1,500,000) for private prison guard salary increases.

~~[Penalties against private prisons for staffing violations may not be assessed by the New Mexico corrections department in fiscal year 2019.] LINE-ITEM VETO~~

Performance measures:

- (a) Explanatory: Percent of participating inmates who have completed adult basic education
- (b) Explanatory: Percent of residential drug abuse program graduates reincarcerated within thirty-six months of release
- (c) Output: Number of inmate-on-inmate assaults with serious injury 8
- (d) Output: Number of inmate-on-staff assaults with serious injury 2
- (e) Outcome: Percent of release-eligible female inmates incarcerated past their scheduled release date 6%
- (f) Outcome: Percent of release-eligible male inmates still incarcerated past their scheduled release date 6%
- (g) Outcome: Percent of prisoners reincarcerated within thirty-six months 40%
- (h) Outcome: Vacancy rate of correctional officers in public facilities 15%

(2) Corrections industries:

The purpose of the corrections industries program is to provide training and work experience opportunities for inmates to instill a quality work ethic and to prepare them to perform effectively in an employment position and to reduce idle time of inmates while in prison.

Appropriations:

|     |                       |         |         |         |
|-----|-----------------------|---------|---------|---------|
| (a) | Personal services and |         |         |         |
|     | employee benefits     | 2,067.4 |         | 2,067.4 |
| (b) | Contractual services  | 51.4    |         | 51.4    |
| (c) | Other                 | 8,732.7 | 8,732.7 |         |

Performance measures:

|             |  |  |      |
|-------------|--|--|------|
| (a) Output: | Percent of inmates receiving vocational or educational |  |      |
|             | training assigned to corrections industries            |  | >20% |

(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     | 19,353.4 | 656.4   | 20,009.8 |
| (b) | Contractual services  | 6,246.7  | 812.7   | 7,059.4  |
| (c) | Other                 | 4,807.8  | 1,727.3 | 6,535.1  |

Performance measures:

|                  |   |     |  |
|------------------|---|-----|--|
| (a) Explanatory: | Percent turnover of probation and parole officers           |     |  |
| (b) Outcome:     | Percent of contacts per month made with high-risk offenders |     |  |
|                  | in the community  | 95% |  |

(c) Quality: Average standard caseload per probation and parole officer 100

(d) Output: Percent of male offenders who graduated from the men's  
recovery center and are reincarcerated within thirty-six  
months 21%

(e) Output: Percent of female offenders who graduated from the women's  
recovery center and are reincarcerated within thirty-six  
months 18%

(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<br>employee benefits | 10,227.4 |           | 10,227.4 |
| (b) Contractual services                       | 355.2    | 200.0     | 555.2    |
| (c) Other                                      | 1,812.9  | 154.8     | 1,967.7  |
| Subtotal                                       |          | 333,257.3 |          |

**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<br>employee benefits | 1,035.4 |  | 1,035.4 |
| (b) Contractual services                       | 2,582.3 |  | 2,582.3 |

|           |         |         |         |
|-----------|---------|---------|---------|
| (c) Other | 2,105.4 | 1,034.2 | 3,139.6 |
|-----------|---------|---------|---------|

The general fund appropriation to the victim compensation program of the crime victims reparation commission in the contractual services category includes two million three hundred forty-nine thousand one hundred dollars (\$2,349,100) for sexual assault service programs.

The general fund appropriation to the victim compensation program of the crime victims reparation commission in the other category includes one million fifty thousand dollars (\$1,050,000) for sexual assault services.

Performance measures:

(a) Outcome: Percent of payment for care and support paid to individual victims 100%

(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 |          | 457.4    | 457.4 |
| (b) Contractual services                    |          | 84.2     | 84.2  |
| (c) Other                                   | 13,779.4 | 13,779.4 |       |

Performance measures:

(a) Efficiency: Percent of subgrantees who receive compliance monitoring via desk audits 95%

(b) Efficiency: Percent of site visits conducted 40%

Subtotal 21,078.3

**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 80,716.6 995.0 3,527.9 4,898.5  
90,138.0

(b) Contractual services 1,307.6 100.0 1,293.5  
2,701.1

(c) Other 21,804.5 1,745.0 2,413.3 1,698.9 27,661.7

The internal service funds/interagency transfers appropriations to the law enforcement program of the department of public safety include ninety-four thousand five hundred dollars (\$94,500) from the weight distance tax identification permit fund. Any unexpended balances in the law enforcement program of the department of public safety remaining at the end of fiscal year 2019 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 data-driven traffic-related enforcement projects  
held 1,700

(b) Output: Number of driving-while-intoxicated saturation patrols  
conducted 975

(c) Output: Number of commercial motor vehicle safety inspections  
conducted 70,000

(d) Output: Number of driving-while-intoxicated arrests 2,250

(2) Statewide law enforcement support program:

The purpose of the statewide law enforcement support program is to promote a safe and secure environment for the state of New Mexico through intelligently led policing practices, vital scientific and technical support, current and relevant training and innovative leadership for the law enforcement community.

Appropriations:

(a) Personal services and

employee benefits 8,648.0 1,832.0 414.6 874.7 11,769.3

|     |                      |         |         |       |       |         |
|-----|----------------------|---------|---------|-------|-------|---------|
| (b) | Contractual services | 856.9   | 813.6   | 144.5 | 510.0 | 2,325.0 |
| (c) | Other                | 2,866.8 | 2,971.3 | 428.9 | 264.0 | 6,531.0 |

Performance measures:

- (a) Outcome: Percent of forensic firearm and toolmark cases completed 90%
- (b) Outcome: Percent of forensic latent fingerprint cases completed 90%
- (c) Outcome: Percent of forensic chemistry cases completed 90%
- (d) Outcome: Percent of forensic biology and DNA cases completed 65%

(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<br>employee benefits | 3,612.9 |     | 130.2     | 518.2 | 4,261.3 |
| (b) | Contractual services                       | 147.3   |     | 5.0       |       | 152.3   |
| (c) | Other                                      | 346.8   | 6.7 | 3,036.0   |       | 3,389.5 |
|     | Subtotal                                   |         |     | 148,929.2 |       |         |

**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<br>employee benefits | 2,070.5 | 34.2 | 108.3 | 2,734.1 | 4,947.1 |
| (b) | Contractual services                       | 125.0   |      |       | 2,187.6 | 2,312.6 |

|     |       |       |      |      |          |          |
|-----|-------|-------|------|------|----------|----------|
| (c) | Other | 669.5 | 20.8 | 30.2 | 11,302.5 | 12,023.0 |
|-----|-------|-------|------|------|----------|----------|

Performance measures:

(a) Outcome: Percent of compliance of all federal-grants-measuring visits 100%

|          |  |  |  |  |          |  |
|----------|--|--|--|--|----------|--|
| Subtotal |  |  |  |  | 19,282.7 |  |
|----------|--|--|--|--|----------|--|

|                     |           |          |         |          |  |
|---------------------|-----------|----------|---------|----------|--|
| TOTAL PUBLIC SAFETY | 436,545.7 | 41,342.2 | 8,767.0 | 60,245.1 |  |
|                     | 546,900.0 |          |         |          |  |

## H. TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION:

(1) Project design and construction:

The purpose of the project design and construction program is to provide improvements and additions to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to highway planning, design and construction necessary for a complete system of highways in the state.

Appropriations:

|     |                       |           |           |           |  |
|-----|-----------------------|-----------|-----------|-----------|--|
| (a) | Personal services and |           |           |           |  |
|     | employee benefits     | 21,572.2  | 3,376.6   | 24,948.8  |  |
| (b) | Contractual services  | 77,556.6  | 248,508.7 |           |  |
|     |                       | 326,065.3 |           |           |  |
| (c) | Other                 | 71,237.2  | 113,997.7 | 185,234.9 |  |

Notwithstanding the provisions of Article 21 of Chapter 6 NMSA 1978, any funds received by the New Mexico finance authority from the department of transportation in fiscal year 2019 as an annual administrative fee for issuing and managing state transportation bonds pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978 shall not be deposited into the local transportation infrastructure fund.

The other state funds appropriations to the project design and construction program of the department of transportation include ten million dollars (\$10,000,000) for maintenance, reconstruction and related construction costs of state-managed highways.

Performance measures:

(a) Outcome: Percent of projects in production let as scheduled >67%

(b) Quality: Percent of final cost-over-bid amount (less gross receipts)



tax) on highway construction projects <3%

(c) Outcome: Percent of projects completed according to schedule >88%

(2) Highway operations:

The purpose of the highway operations program is to maintain and provide improvements to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to preserving roadway integrity and maintaining open highway access throughout the state system.

Appropriations:

|     |  |           |          |           |
|-----|--|-----------|----------|-----------|
| (a) | Personal services and<br>employee benefits | 101,708.8 | 3,000.0  | 104,708.8 |
| (b) | Contractual services                       | 49,407.6  |          | 49,407.6  |
| (c) | Other                                      | 79,962.2  | 79,962.2 |           |

Performance measures:

(a) Output: Number of statewide pavement lane miles preserved >2,550

(b) Outcome: Number of combined systemwide lane miles in poor condition <6,925

(c) Outcome: Percent of bridges in fair condition or better, based on  
deck area >90%

(3) Program support:

The purpose of program support is to provide management and administration of financial and human resources, custody and maintenance of information and property and the management of construction and maintenance projects.

Appropriations:

|     |  |          |          |          |
|-----|--|----------|----------|----------|
| (a) | Personal services and<br>employee benefits | 25,077.8 |          | 25,077.8 |
| (b) | Contractual services                       | 4,321.9  |          | 4,321.9  |
| (c) | Other                                      | 13,086.3 | 13,086.3 |          |

Performance measures:

(a) Outcome: Vacancy rate in all programs <13%

(4) Modal:

The purpose of the modal program is to provide federal grants management and oversight of programs with dedicated revenues, including transit and rail, traffic safety and aviation.

Appropriations:

|     |  |          |          |          |          |
|-----|--|----------|----------|----------|----------|
| (a) | Personal services and<br>employee benefits | 3,341.4  | 519.4    | 1,249.4  | 5,110.2  |
| (b) | Contractual services                       |          | 18,966.0 | 1,700.0  | 10,846.8 |
|     |  | 31,512.8 |          |          |          |
| (c) | Other                                      | 13,008.4 | 1,300.0  | 20,272.8 | 34,581.2 |

The internal service funds/interagency transfers appropriations to the modal program of the department of transportation include three million two hundred nineteen thousand four hundred dollars (\$3,219,400) from the weight distance tax identification permit fund to hire contract workers, purchase equipment for commercial truck permitting and maintain and fund capital improvements for port-of-entry facilities.

Performance measures:

(a) Outcome: Number of traffic fatalities <350

(b) Outcome: Number of alcohol-related traffic fatalities <135

|                      |           |           |         |  |           |
|----------------------|-----------|-----------|---------|--|-----------|
| Subtotal             |           | 884,017.8 |         |  |           |
| TOTAL TRANSPORTATION |           | 479,246.4 | 3,519.4 |  | 401,252.0 |
|                      | 884,017.8 |           |         |  |           |

**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<br>employee benefits | 9,327.4  | 2,935.9 | 45.0    | 6,501.1  |
|     |  | 18,809.4 |         |         |          |
| (b) | Contractual services                       | 1,059.8  | 746.6   |         | 18,331.9 |
|     |  | 20,138.3 |         |         |          |
| (c) | Other                                      | 678.1    | 417.6   | 3,242.1 | 4,337.8  |

Performance measures:

- (a) Output: Number of local education agencies audited for funding  
formula components and program compliance 20
- (b) Explanatory: Number of eligible children served in state-funded  
prekindergarten
- (c) Explanatory: Number of eligible children served in k-3 plus
- Subtotal 43,285.5

**REGIONAL EDUCATION COOPERATIVES:**

Appropriations:

|     |              |       |         |         |         |         |
|-----|--------------|-------|---------|---------|---------|---------|
| (a) | Northwest    | 103.8 | 3,819.4 | 420.1   | 4,343.3 |         |
| (b) | Northeast    | 103.8 | 574.7   | 445.4   | 1,123.9 |         |
| (c) | Lea county   | 103.8 | 2,471.1 | 414.7   | 2,989.6 |         |
| (d) | Pecos valley | 103.8 | 381.0   | 260.4   | 745.2   |         |
| (e) | Southwest    | 103.8 | 575.0   | 133.0   | 600.0   | 1,411.8 |
| (f) | Central      | 103.8 | 4,122.1 | 5,588.9 | 9,814.8 |         |
| (g) | High plains  | 103.8 | 2,749.4 | 262.0   | 3,115.2 |         |
| (h) | Clovis       | 103.8 | 800.0   | 1,000.0 | 1,903.8 |         |
| (i) | Ruidoso      | 103.8 | 3,809.6 | 4,548.5 | 8,461.9 |         |

|     |              |       |  |       |
|-----|--------------|-------|--|-------|
| (j) | Four corners | 103.8 |  | 103.8 |
|-----|--------------|-------|--|-------|

The general fund appropriation to the four corners regional education cooperative is contingent on authorization of a four corners regional education cooperative [in San Juan county] by the public education department pursuant to Section 22-2B-3 NMSA 1978. *LINE-ITEM VETO*

|  |          |  |  |          |
|--|----------|--|--|----------|
|  | Subtotal |  |  | 34,013.3 |
|--|----------|--|--|----------|

PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS:

Appropriations:

|     |   |          |         |          |
|-----|---|----------|---------|----------|
| (a) | Principals pursuing<br>excellence                   | 2,000.0  |         | 2,000.0  |
| (b) | Teachers pursuing<br>excellence                     | 2,000.0  |         | 2,000.0  |
| (c) | Breakfast for elementary<br>students                | 1,600.0  |         | 1,600.0  |
| (d) | After-school and summer<br>enrichment programs      |          | 325.0   | 325.0    |
| (e) | Public pre-kindergarten<br>fund                     | 29,000.0 | 3,500.0 | 32,500.0 |
| (f) | Truancy and dropout<br>prevention                   | 4,000.0  |         | 4,000.0  |
| (g) | Graduation, reality and<br>dual-role skills program |          | 200.0   | 200.0    |
|     |   |          |         | 400.0    |
| (h) | New Mexico grown fresh<br>fruits and vegetables     |          | 200.0   | 200.0    |
| (i) | K-3 plus fund                                       | 30,200.0 |         | 30,200.0 |
| (j) | Advanced placement                                  |          | 1,000.0 | 1,000.0  |

|     |   |         |         |         |
|-----|---|---------|---------|---------|
| (k) | Early reading initiative  | 8,837.0 |         | 8,837.0 |
| (l) | Science, technology,<br>engineering and math<br>initiative                                | 3,000.0 |         | 3,000.0 |
| (m) | Teacher and school leader<br>preparation  | 1,000.0 |         | 1,000.0 |
| (n) | Teacher and administrator<br>evaluation system  | 1,000.0 | 1,000.0 | 2,000.0 |
| (o) | College preparation,<br>career readiness and<br>dropout prevention                        | 1,500.0 |         | 1,500.0 |
| (p) | Interventions and support<br>for students, teachers,<br>struggling schools and<br>parents | 4,000.0 |         | 4,000.0 |

The internal service funds/interagency transfers appropriation to the public pre-kindergarten fund of the public education department is from the federal temporary assistance for needy families block grant to New Mexico.

Notwithstanding the provisions of Article 23 of Chapter 32A NMSA 1978, the appropriations to the public pre-kindergarten fund of the public education department include sufficient funding to continue the established extended-day prekindergarten pilot program during the 2018-2019 school year.

In setting the per-student funding amount for the summer 2018 k-3 plus program, the secretary of public education shall use the final unit value set for the 2017-2018 school year as the basis for funding June, July and August 2018 k-3 plus programs.

The general fund appropriation to the k-3 plus fund of the public education department includes sufficient funds to pilot k-3 plus in fourth and fifth grades pursuant to Section 22-13-28.2 NMSA 1978.

The secretary of public education shall use an amount of the general fund appropriation to the k-3 plus fund for fiscal year 2019 in this section equal to the difference between that appropriation and the fiscal year 2018 general fund appropriation to the k-3 plus fund in Subparagraph h of the public education department special appropriations in Subsection l of Section 4 of Chapter 135 of Laws 2017 to make

awards to new or expansion k-3 plus programs at school districts and charter schools that keep students who participate in k-3 plus with the same teacher and cohort of students during the regular school year.

The other state funds appropriation to the public education department for the teacher and administrator evaluation system is from the educator licensure fund.

The internal service funds/interagency transfers appropriation to the graduation, reality and dual-role skills program of the public education department is from the federal temporary assistance for needy families block grant.

Except for money in the appropriations for college preparation, career readiness and dropout prevention and interventions and support for students, teachers, struggling schools and parents that is for use by the public education department to provide services or support, the appropriations are contingent on 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.

Except for appropriations to the public pre-kindergarten fund and k-3 plus fund, any unexpended balances in the special appropriations to the public education department remaining at the end of fiscal year 2019 from appropriations made from the general fund shall revert to the general fund.

|          |          |
|----------|----------|
| Subtotal | 94,562.0 |
|----------|----------|

**PUBLIC SCHOOL FACILITIES AUTHORITY:**

The purpose of the public school facilities authority is to oversee public school facilities in all eighty-nine school districts ensuring correct and prudent planning, building and maintenance using state funds and ensuring adequacy of all facilities in accordance with public education department approved educational programs.

**Appropriations:**

|     |                       |         |         |
|-----|-----------------------|---------|---------|
| (a) | Personal services and |         |         |
|     | employee benefits     | 3,881.1 | 3,881.1 |
| (b) | Contractual services  | 94.7    | 94.7    |
| (c) | Other                 | 1,124.5 | 1,124.5 |

**Performance measures:**

- (a) Explanatory: Average cost per square foot of new construction
- (b) Explanatory: Statewide public school facility condition index measured on December 31 of prior calendar year
- (c) Explanatory: Statewide public school facility maintenance assessment report score measured on December 31 of prior calendar year

|                       |           |          |         |          |
|-----------------------|-----------|----------|---------|----------|
| Subtotal              |           | 5,100.3  |         |          |
| TOTAL OTHER EDUCATION | 101,965.3 | 29,502.7 | 3,878.0 | 41,615.1 |
|                       | 176,961.1 |          |         |          |

**J. HIGHER EDUCATION**

On approval of the higher education department, the state budget division of the department of finance and administration may approve increases in budgets of agencies in this subsection, with the exception of the policy development and institutional financial oversight program of the higher education department, whose other state funds exceed amounts specified. ~~[In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the justification for the approval.]~~ *LINE-ITEM VETO*

The department of finance and administration shall, as directed by the secretary of higher education, withhold from an educational institution or program that the higher education department places under an enhanced fiscal oversight program a portion, up to ten percent, of the institution's or program's general fund allotments. On written notice by the secretary of higher education that the institution or program has made sufficient progress toward satisfying the requirements imposed by the higher education department under the enhanced fiscal oversight program, the department of finance and administration shall release the withheld allotments. Money withheld in accordance with this provision and not released at the end of fiscal year 2019 shall revert to the general fund. ~~[The secretary of the department of finance and administration shall advise the legislature through its officers and appropriate committees, in writing, of the status of all withheld allotments.]~~ *LINE-ITEM VETO*

Except as otherwise provided, any unexpended balances remaining at the end of fiscal year 2019 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     | 2,584.8 | 150.0 | 43.3  | 1,094.1 | 3,872.2  |
| (b) | Contractual services  | 1,365.2 | 50.0  |       | 237.7   | 1,652.9  |
| (c) | Other                 | 8,353.0 | 308.1 | 242.4 | 8,632.3 | 17,535.8 |

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 two hundred thirty-five thousand nine hundred dollars (\$5,235,900) to provide adults with education services and materials and access to high school equivalency tests, one hundred thirty-eight thousand three hundred dollars





|     |  |           |           |               |
|-----|--|-----------|-----------|---------------|
| (b) | Other                                      | 156,229.0 | 140,904.0 | 297,133.0     |
| (c) | Athletics                                  | 2,617.3   | 30,632.0  | 31.0 33,280.3 |
| (d) | Educational television<br>and public radio | 1,080.2   | 6,119.0   | 7,199.2       |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time 48%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 80%

(2) 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 | 8,358.6 | 6,625.0 | 657.0 15,640.6 |
| (b) | Other                            | 1,732.0 | 691.0   | 2,423.0        |

Performance measures:

(a) Outcome: Percent of first-time, full-time freshmen retained to the third semester 65.5%

(b) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete

an academic program within one hundred fifty percent of  
standard graduation time 12%

(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 | 1,728.9 | 2,730.0 | 481.0 | 4,939.9 |
|----------|---------|---------|-------|---------|

|           |       |       |       |
|-----------|-------|-------|-------|
| (b) Other | 382.0 | 356.0 | 738.0 |
|-----------|-------|-------|-------|

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or

certificate-seeking community college students who complete  
an academic program within one hundred fifty percent of  
standard graduation time 10%

(b) Outcome: Percent of first-time, full-time freshmen retained to the

third semester 56%

(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 | 5,233.5 | 4,965.0 | 173.0 | 10,371.5 |
|----------|---------|---------|-------|----------|

|           |         |         |         |
|-----------|---------|---------|---------|
| (b) Other | 1,337.0 | 2,780.0 | 4,117.0 |
|-----------|---------|---------|---------|

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 13%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 65%

(5) Taos branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 | 3,365.5 | 3,235.0 | 838.0   | 7,438.5 |
| (b) | Other                            | 1,196.0 | 1,462.0 | 2,658.0 |         |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 10%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 50%

(6) Research and public service projects:

Appropriations:

|     |  |         |         |
|-----|--|---------|---------|
| (a) | Judicial selection   | 21.0    | 21.0    |
| (b) | Southwest research center  | 1,043.3 | 1,043.3 |
| (c) | Substance abuse program  | 68.1    | 68.1    |
| (d) | Resource geographic<br>information system  | 60.8    | 60.8    |
| (e) | Southwest Indian law clinic  | 190.5   | 190.5   |
| (f) | Geospatial and population<br>studies/bureau of business<br>and economic research | 353.0   | 353.0   |
| (g) | New Mexico historical<br>review  | 44.0    | 44.0    |
| (h) | Ibero-American education   | 83.1    | 83.1    |
| (i) | Manufacturing engineering<br>program   | 515.5   | 515.5   |
| (j) | Wildlife law education   | 88.4    | 88.4    |
| (k) | Morrissey hall programs  | 103.6   | 103.6   |
| (l) | Disabled student services  | 176.1   | 176.1   |
| (m) | Minority student services  | 949.5   | 949.5   |
| (n) | Community-based education  | 521.8   | 521.8   |
| (o) | Corrine Wolfe children's<br>law center   | 157.7   | 157.7   |
| (p) | Utton transboundary<br>resources center  | 317.7   | 317.7   |

|     |  |       |       |       |       |
|-----|--|-------|-------|-------|-------|
| (q) | Student mentoring program                                  |       | 393.1 |       | 393.1 |
| (r) | Land grant studies   | 120.9 |       | 120.9 |       |
| (s) | College degree mapping                                     | 68.8  |       | 68.8  |       |
| (t) | Gallup branch - nurse<br>expansion                         | 192.1 |       | 192.1 |       |
| (u) | Valencia branch - nurse<br>expansion                       | 155.8 |       | 155.8 |       |
| (v) | Taos branch - nurse<br>expansion                           | 223.8 |       | 223.8 |       |
| (w) | <del>[Gallup branch-]</del> workforce development programs |       | 200.0 |       | 200.0 |

~~[The general fund appropriation to the minority student services program of the research and public service projects of the university of New Mexico includes twenty thousand dollars (\$20,000) for black student union services, twenty thousand dollars (\$20,000) to expand Native American student services and twenty thousand dollars (\$20,000) for the engaging Latino communities for education program.]~~  
*LINE-ITEM VETO*

~~[The general fund appropriation to the student mentoring program of the research and public service projects of the university of New Mexico includes one hundred twenty five thousand dollars (\$125,000) for the Chicana and Chicano studies department at the university of New Mexico to establish a pathway to college pilot project.]~~  
*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<br>purposes | 57,201.1  | 57,896.6 | 4,000.0   | 119,097.7 |
| (b) | Other                               | 371,000.0 | 72,500.0 | 443,500.0 |           |

The other state funds appropriation to the health sciences center of the university of New Mexico in the instruction and general purposes category includes five hundred eighty-one thousand five hundred dollars (\$581,500) from the tobacco settlement program fund.

Performance measures:

(a) Output: Pass rate of medical school students on United States

medical licensing examination, step two clinical skills

exam, on first attempt 98%

(b) Outcome: Percent of nursing graduates passing the requisite

licensure exam on first attempt 97%

(8) Health sciences center research and public service projects:

Appropriations:

~~[(a) Bioscience authority 250.0 250.0] LINE-ITEM VETO~~

(b) Office of medical

|              |         |         |     |         |
|--------------|---------|---------|-----|---------|
| investigator | 5,207.2 | 3,700.0 | 2.5 | 8,909.7 |
|--------------|---------|---------|-----|---------|

(c) Native American suicide

|            |      |  |      |  |
|------------|------|--|------|--|
| prevention | 91.4 |  | 91.4 |  |
|------------|------|--|------|--|

(d) Children's psychiatric

|          |         |          |  |          |
|----------|---------|----------|--|----------|
| hospital | 6,692.2 | 10,000.0 |  | 16,692.2 |
|----------|---------|----------|--|----------|

(e) Carrie Tingley hospital  
18,588.8

|         |          |
|---------|----------|
| 4,888.8 | 13,700.0 |
|---------|----------|

(f) Newborn intensive care  
5,174.3

|         |         |
|---------|---------|
| 3,074.3 | 2,100.0 |
|---------|---------|

(g) Pediatric oncology 1,196.1 250.0 1,446.1

(h) Internal medicine

|             |       |  |       |
|-------------|-------|--|-------|
| residencies | 980.4 |  | 980.4 |
|-------------|-------|--|-------|

(i) Poison and drug

|     |  |          |         |       |          |
|-----|--|----------|---------|-------|----------|
|     | information center   | 1,456.2  | 600.0   | 108.0 | 2,164.2  |
| (j) | Cancer center  | 2,469.5  | 5,300.0 |       | 13,200.0 |
|     |  | 20,969.5 |         |       |          |
| (k) | Genomics, biocomputing<br>and environmental health<br>research | 1,300.0  | 6,000.0 |       | 7,300.0  |
| (l) | Trauma specialty education                                     |          | 250.0   |       | 250.0    |
| (m) | Pediatrics specialty<br>education                              | 250.0    | 250.0   |       |          |
| (n) | Native American health<br>center                               | 252.0    | 252.0   |       |          |
| (o) | Hepatitis community<br>health outcomes                         | 2,017.2  |         |       | 2,017.2  |
| (p) | Nurse expansion  | 1,012.3  |         |       | 1,012.3  |
| (q) | Graduate nurse education                                       | 1,514.7  |         |       | 1,514.7  |
| (r) | Psychiatry residencies   | 370.1    |         |       | 370.1    |
| (s) | General surgery/family<br>community medicine<br>residencies    | 307.7    | 307.7   |       |          |

The other state funds appropriations to the health sciences center research and public service projects program of the university of New Mexico include two million two hundred seventy-seven thousand six hundred dollars (\$2,277,600) from the tobacco settlement program fund.

~~[The general fund appropriation to the bioscience authority of the health sciences center research and public service projects of the university of New Mexico is contingent on matching funds from private sources.]~~ *LINE-ITEM VETO*

|          |  |  |             |  |  |
|----------|--|--|-------------|--|--|
| Subtotal |  |  | 1,418,643.5 |  |  |
|----------|--|--|-------------|--|--|

## 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        | 111,444.8 | 102,500.0 | 2,200.0   | 216,144.8 |
| (b) | Other                                   | 70,600.0  | 77,600.0  | 148,200.0 |           |
| (c) | Athletics                               | 3,117.6   | 12,300.0  | 15,417.6  |           |
| (d) | Educational television and public radio | 1,006.7   | 1,000.0   |           | 2,006.7   |

#### Performance measures:

- (a) Outcome: Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time      48%
- (b) Outcome: Percent of first-time, full-time freshmen retained to the third semester      75%

### (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 | 6,922.0 | 3,600.0 | 1,700.0 | 12,222.0 |
| (b) | Other    | 700.0   | 160.0   | 860.0   |          |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 14%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 55%

(3) Carlsbad branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 | 3,900.7 | 8,800.0 | 600.0   | 13,300.7 |
| (b) | Other                            | 600.0   | 1,500.0 | 2,100.0 |          |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 13%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 57%

(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 | 21,765.9 | 16,900.0 | 1,200.0 | 39,865.9 |
|----------|----------|----------|---------|----------|

|           |         |          |          |  |
|-----------|---------|----------|----------|--|
| (b) Other | 3,400.0 | 14,400.0 | 17,800.0 |  |
|-----------|---------|----------|----------|--|

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 14%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 63%

(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 | 3,304.1 | 1,500.0 | 1,200.0 | 6,004.1 |
|----------|---------|---------|---------|---------|

|           |       |         |         |  |
|-----------|-------|---------|---------|--|
| (b) Other | 400.0 | 1,700.0 | 2,100.0 |  |
|-----------|-------|---------|---------|--|

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or

certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 14%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 53%

(6) Department of agriculture:

|                 |          |         |         |          |
|-----------------|----------|---------|---------|----------|
| Appropriations: | 11,206.4 | 4,234.9 | 1,751.1 | 17,192.4 |
|-----------------|----------|---------|---------|----------|

The general fund appropriation to the New Mexico department of agriculture of New Mexico state university includes two hundred fifty thousand dollars (\$250,000) to expand programs for detection, eradication and mitigation of pecan weevil and other agricultural pests.

(7) Agricultural experiment station:

|                 |          |         |          |          |
|-----------------|----------|---------|----------|----------|
| Appropriations: | 13,512.0 | 5,406.8 | 14,250.0 | 33,168.8 |
|-----------------|----------|---------|----------|----------|

(8) Cooperative extension service:

|                 |          |         |          |          |
|-----------------|----------|---------|----------|----------|
| Appropriations: | 12,491.4 | 5,202.7 | 10,150.0 | 27,844.1 |
|-----------------|----------|---------|----------|----------|

(9) Research and public service projects:

Appropriations:

|     |   |       |       |       |
|-----|---|-------|-------|-------|
| (a) | Science, technology,<br>engineering and mathematics<br>alliance for minority<br>participation | 302.4 | 302.4 |       |
| (b) | Mental health nurse<br>practitioner   | 643.9 | 643.9 |       |
| (c) | Water resource research<br>institute  | 615.6 | 615.6 |       |
| (d) | Indian resources development  | 274.4 |       | 274.4 |

|     |  |       |           |
|-----|--|-------|-----------|
| (e) | Manufacturing sector<br>development program                      | 505.8 | 505.8     |
| (f) | Arrowhead center for<br>business development                     | 310.2 | 310.2     |
| (g) | Nurse expansion  | 700.2 | 700.2     |
| (h) | Alliance teaching and<br>learning advancement                    | 138.6 | 138.6     |
| (i) | College assistance migrant<br>program                            | 199.8 | 199.8     |
| (j) | Carlsbad branch -<br>manufacturing sector<br>development program | 216.6 | 216.6     |
| (k) | Carlsbad branch - nurse<br>expansion                             | 108.9 | 108.9     |
| (l) | Dona Ana branch - dental<br>hygiene program                      | 206.0 | 206.0     |
| (m) | Dona Ana branch - nurse<br>expansion                             | 193.5 | 193.5     |
|     | Subtotal   |       | 558,643.0 |

**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 | 26,603.8 | 12,216.7 | 172.5 | 38,993.0 |
| (b) | Other                            | 13,500.0 | 9,500.0  |       | 23,000.0 |
| (c) | Athletics                        | 2,068.7  | 500.0    |       | 2,568.7  |

Performance measures:

- (a) Output: Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time 22%
- (b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 53%

(2) Research and public service projects:

Appropriations:

|     |                                |       |          |       |       |
|-----|--------------------------------|-------|----------|-------|-------|
| (a) | Advanced placement             |       | 211.6    |       | 211.6 |
| (b) | Minority student services      |       | 514.4    |       | 514.4 |
| (c) | Forest and watershed institute | 289.7 |          | 289.7 |       |
| (d) | Nurse expansion                | 60.4  |          |       | 60.4  |
|     | Subtotal                       |       | 65,637.8 |       |       |

**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 | 16,522.2 | 13,202.0 | 200.0 | 29,924.2 |
| (b) | Other                            | 6,600.0  | 7,000.0  |       | 13,600.0 |
| (c) | Athletics                        | 1,842.1  | 600.0    |       | 2,442.1  |

Performance measures:

- (a) Outcome: Percent of first-time, full-time freshmen retained to the third semester 61%
- (b) Output: Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time 26%

(2) Research and public service projects:

Appropriations:

|                |  |                  |                  |  |
|----------------|--|------------------|------------------|--|
| (a)            | Instructional television                     | 72.4             |                  | 72.4                                   |
| <del>(b)</del> | <del>Small business development center</del> | <del>200.0</del> | <del>200.0</del> | <del>200.0</del> <i>LINE-ITEM VETO</i> |
| (c)            | Pharmacy and phlebotomy programs             | 57.2             | 57.2             |  |
| (d)            | Web-based teacher licensure                  | 129.2            |                  | 129.2                                  |
| (e)            | Child development center                     | 193.6            |                  | 193.6                                  |
| (f)            | Nurse expansion                              | 809.2            |                  | 809.2                                  |

~~[The general fund appropriation to the small business development center of the research and public service projects of western New Mexico university includes one hundred thousand dollars (\$100,000) for small business development in Gallup and one hundred thousand dollars (\$100,000) for small business development in Deming.] LINE-ITEM VETO~~

Subtotal 47,427.9

**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        | 26,308.2 | 18,500.0 | 2,300.0  | 47,108.2 |
| (b) | Other                                   | 13,200.0 | 26,000.0 | 39,200.0 |          |
| (c) | Athletics                               | 2,067.4  | 2,200.0  | 11.0     | 4,278.4  |
| (d) | Educational television and public radio | 1,020.9  | 1,400.0  | 25.0     | 2,445.9  |

Performance measures:

- (a) Outcome: Percent of first-time, full-time freshmen retained to the third semester 65%
- (b) Output: Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time 34%

(2) Roswell branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 | 11,036.2 | 6,500.0 | 700.0    | 18,236.2 |
| (b) | Other                            | 3,700.0  | 8,500.0 | 12,200.0 |          |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 25%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 56%

(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 | 1,956.9 | 1,800.0 | 1,000.0 | 4,756.9 |
| (b) | Other                            | 300.0   | 1,200.0 | 1,500.0 |         |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of



standard graduation time 18%

(b) Outcome: Percent of first-time, full-time freshmen retained to the  
third semester 35%

(4) Research and public service projects:

Appropriations:

|     |  |       |      |           |       |
|-----|--|-------|------|-----------|-------|
| (a) | Blackwater draw site and<br>museum           | 87.8  | 35.0 | 122.8     |       |
| (b) | Student success programs                     | 417.0 |      |           | 417.0 |
| (c) | Nurse expansion                              | 328.0 |      | 328.0     |       |
| (d) | At-risk student tutoring                     | 224.6 |      |           | 224.6 |
| (e) | Allied health                                | 142.4 |      | 142.4     |       |
| (f) | Roswell branch - nurse<br>expansion          | 68.5  |      | 68.5      |       |
| (g) | Roswell branch - airframe<br>mechanics       | 55.3  |      | 55.3      |       |
| (h) | Roswell branch - special<br>services program | 56.6  |      |           | 56.6  |
|     | Subtotal                                     |       |      | 131,140.8 |       |

### **NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

|     |                                  |          |          |          |
|-----|----------------------------------|----------|----------|----------|
| (a) | Instruction and general purposes | 26,337.5 | 24,500.0 | 50,837.5 |
|-----|----------------------------------|----------|----------|----------|

|     |       |          |          |          |
|-----|-------|----------|----------|----------|
| (b) | Other | 20,981.0 | 15,275.0 | 36,256.0 |
|-----|-------|----------|----------|----------|

Performance measures:

(a) Output: Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time 49%

(b) Outcome: Retention of first-time, full-time freshmen to the third semester 77%

(2) Bureau of mine safety:

|                 |       |       |       |
|-----------------|-------|-------|-------|
| Appropriations: | 312.1 | 186.0 | 498.1 |
|-----------------|-------|-------|-------|

(3) Bureau of geology and mineral resources:

|                 |         |         |       |         |
|-----------------|---------|---------|-------|---------|
| Appropriations: | 3,888.7 | 1,122.0 | 264.0 | 5,274.7 |
|-----------------|---------|---------|-------|---------|

The general fund appropriation to the bureau of geology and mineral resources program of the New Mexico institute of mining and technology includes one hundred thousand dollars (\$100,000) from federal Mineral Leasing Act receipts.

(4) Petroleum recovery research center:

|                 |         |       |         |         |
|-----------------|---------|-------|---------|---------|
| Appropriations: | 1,841.2 | 399.0 | 4,039.0 | 6,279.2 |
|-----------------|---------|-------|---------|---------|

(5) Geophysical research center:

|                 |         |         |         |         |
|-----------------|---------|---------|---------|---------|
| Appropriations: | 1,073.2 | 1,045.0 | 1,934.0 | 4,052.2 |
|-----------------|---------|---------|---------|---------|

(6) Research and public service projects:

Appropriations:

|     |                                     |       |         |          |          |
|-----|-------------------------------------|-------|---------|----------|----------|
| (a) | Energetic materials research center | 780.8 | 3,871.0 | 27,848.0 | 32,499.8 |
|-----|-------------------------------------|-------|---------|----------|----------|

|     |  |       |           |         |
|-----|--|-------|-----------|---------|
| (b) | Science and engineering fair                       | 196.8 |           | 196.8   |
| (c) | Institute for complex<br>additive systems analysis | 791.8 | 378.0     | 1,392.0 |
|     |  |       |           | 2,561.8 |
| (d) | Cave and karst research                            | 355.4 | 62.0      | 417.4   |
| (e) | Homeland security center                           | 513.5 |           | 513.5   |
|     | Subtotal   |       | 139,387.0 |         |

**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<br>purposes | 9,766.2 | 5,000.0 | 4,200.0 | 18,966.2 |
| (b) | Other                               | 2,900.0 | 4,700.0 | 7,600.0 |          |
| (c) | Athletics                           | 346.6   | 200.0   | 546.6   |          |

Performance measures:

(a) Outcome: Percent of first-time, full-time freshmen retained to the  
third semester 66.5%

(b) Output: Percent of a cohort of first-time, full-time,  
degree-seeking freshmen who complete a baccalaureate  
program within one hundred fifty percent of standard  
graduation time 25%

(2) Research and public service projects:

Appropriations:

|     |  |       |          |       |
|-----|--|-------|----------|-------|
| (a) | Nurse expansion                              | 233.0 |          | 233.0 |
| (b) | Science, technology,<br>engineering and math | 137.3 |          | 137.3 |
| (c) | Veterans center                              | 114.5 |          | 114.5 |
|     | Subtotal                                     |       | 27,597.6 |       |

**SANTA FE COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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<br>purposes | 9,477.9 | 26,473.0 | 3,300.0  | 39,250.9 |
| (b) | Other                               | 1,374.0 | 15,477.0 | 16,851.0 |          |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 11%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 50%

(2) Research and public service projects:

Appropriations:

|     |                                    |         |          |         |
|-----|------------------------------------|---------|----------|---------|
| (a) | Automechanics                      | 45.9    |          | 45.9    |
| (b) | Small business development centers | 4,055.6 | 2,600.0  | 6,655.6 |
| (c) | Nurse expansion                    | 253.9   |          | 253.9   |
| (d) | Radiography technician program     | 91.7    |          | 91.7    |
|     | Subtotal                           |         | 63,149.0 |         |

**CENTRAL NEW MEXICO COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 | 54,779.9 | 91,000.0 | 3,605.0  | 149,384.9 |
| (b) | Other                            | 6,500.0  | 23,700.0 | 30,200.0 |           |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 23%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 63%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion 179.6 179.6

Subtotal 179,764.5

**LUNA COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 6,623.7 87.1 182.1 6,892.9

(b) Other 1,808.3 58.3 1,866.6

(c) Athletics 382.4 382.4

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 32%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 46%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion 267.0 267.0

(b) Student retention and

|            |       |         |
|------------|-------|---------|
| completion | 530.6 | 530.6   |
| Subtotal   |       | 9,939.5 |

**MESALANDS COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 | 3,821.4 | 962.0 | 550.0   | 5,333.4 |
| (b) | Other                            | 600.0   | 700.0 | 1,300.0 |         |
| (c) | Athletics                        | 137.7   |       | 137.7   |         |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 39%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 62%

(2) Research and public service projects:

Appropriations:

|          |                      |       |         |
|----------|----------------------|-------|---------|
| (a)      | Wind training center | 112.9 | 112.9   |
| Subtotal |                      |       | 6,884.0 |

**NEW MEXICO JUNIOR COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 | 5,271.5 | 15,000.0 | 450.0 | 20,721.5 |
|----------|---------|----------|-------|----------|

|           |         |         |         |  |
|-----------|---------|---------|---------|--|
| (b) Other | 3,600.0 | 2,000.0 | 5,600.0 |  |
|-----------|---------|---------|---------|--|

|               |       |  |       |  |
|---------------|-------|--|-------|--|
| (c) Athletics | 448.1 |  | 448.1 |  |
|---------------|-------|--|-------|--|

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 30%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 60%

(2) Research and public service projects:

Appropriations:

(a) Oil and gas management

|         |       |  |       |  |
|---------|-------|--|-------|--|
| program | 161.6 |  | 161.6 |  |
|---------|-------|--|-------|--|

|                     |       |  |       |  |
|---------------------|-------|--|-------|--|
| (b) Nurse expansion | 282.9 |  | 282.9 |  |
|---------------------|-------|--|-------|--|

(c) Lea county distance

|                      |  |      |  |      |
|----------------------|--|------|--|------|
| education consortium |  | 27.5 |  | 27.5 |
|----------------------|--|------|--|------|

|          |  |          |  |  |
|----------|--|----------|--|--|
| Subtotal |  | 27,241.6 |  |  |
|----------|--|----------|--|--|



**SAN JUAN COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 | 22,815.5 | 29,000.0 | 2,400.0  | 54,215.5 |
| (b) | Other                            | 5,000.0  | 18,000.0 | 23,000.0 |          |

Performance measures:

- (a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 17%
- (b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 61%

(2) Research and public service projects:

Appropriations:

|     |                        |       |          |       |  |
|-----|------------------------|-------|----------|-------|--|
| (a) | Dental hygiene program | 153.7 |          | 153.7 |  |
| (b) | Nurse expansion        | 198.3 |          | 198.3 |  |
|     | Subtotal               |       | 77,567.5 |       |  |

**CLOVIS COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 | 9,145.4 | 5,500.0 | 1,200.0 | 15,845.4 |
| (b) | Other                            | 500.0   | 5,900.0 | 6,400.0 |          |

Performance measures:

(a) Outcome: Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time 35%

(b) Outcome: Percent of first-time, full-time freshmen retained to the third semester 62%

(2) Research and public service projects:

Appropriations:

|     |                 |       |          |       |  |
|-----|-----------------|-------|----------|-------|--|
| (a) | Nurse expansion | 272.9 |          | 272.9 |  |
|     | Subtotal        |       | 22,518.3 |       |  |

**NEW MEXICO MILITARY INSTITUTE:**

(1) Main campus:

The purpose of the New Mexico military institute is to provide college-preparatory instruction for students in a residential, military environment culminating in a high school diploma or associates degree.

Appropriations:

|     |                                  |         |          |         |          |
|-----|----------------------------------|---------|----------|---------|----------|
| (a) | Instruction and general purposes | 1,312.4 | 24,700.0 | 200.0   | 26,212.4 |
| (b) | Other                            | 8,500.0 | 1,130.0  | 9,630.0 |          |

|     |   |       |         |         |
|-----|---|-------|---------|---------|
| (c) | Athletics                               | 259.3 | 500.0   | 759.3   |
| (d) | Knowles legislative scholarship program |       | 1,284.7 | 1,284.7 |

Performance measures:

(a) Outcome: Average American college testing composite scores for graduating high school seniors 22

(b) Outcome: Proficiency profile reading scores for graduating college sophomores 117.1

Subtotal 37,886.4

**NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED:**

(1) Main campus:

The purpose of the New Mexico school for the blind and visually impaired is to be an innovative leader and unifying entity in the field of educating blind and visually impaired students birth through high school by identifying and ensuring quality education through collaborative relationships with students, families and state, local and national partners to provide outstanding advocacy, training, resources and support services, thus ensuring all students who are blind or visually impaired will become independent, productive members of their communities.

Appropriations:

|     |                                  |       |          |       |          |
|-----|----------------------------------|-------|----------|-------|----------|
| (a) | Instruction and general purposes | 984.1 | 14,300.0 | 140.0 | 15,424.1 |
|-----|----------------------------------|-------|----------|-------|----------|

Performance measures:

(a) Output: Number of New Mexico teachers who complete a personnel preparation program to become a teacher of the visually impaired 16

(2) Research and public service projects:

Appropriations:

|     |                            |          |       |
|-----|----------------------------|----------|-------|
| (a) | Early childhood center     | 361.9    | 361.9 |
| (b) | Low vision clinic programs | 111.1    | 111.1 |
|     | Subtotal                   | 15,897.1 |       |

**NEW MEXICO SCHOOL FOR THE DEAF:**

(1) Main campus:

The purpose of the New Mexico school for the deaf program is to provide a school-based comprehensive, fully accessible and language-rich learning environment for its students who are deaf and hard-of-hearing and to work collaboratively with families, agencies and communities throughout the state to meet the unique communication, language and learning needs of children and youth who are deaf and hard-of-hearing.

Appropriations:

|     |                                  |         |          |       |          |
|-----|----------------------------------|---------|----------|-------|----------|
| (a) | Instruction and general purposes | 3,819.3 | 12,100.0 | 300.0 | 16,219.3 |
|-----|----------------------------------|---------|----------|-------|----------|

Performance measures:

- (a) Outcome: Rate of transition to postsecondary education, vocational-technical training school, junior colleges, work training or employment for graduates based on a three-year rolling average 100%
- (b) Outcome: Percent of first-year signers who demonstrate improvement in American sign language based on fall or spring assessments 100%

(2) Research and public service projects:

Appropriations:

|     |                             |          |       |
|-----|-----------------------------|----------|-------|
| (a) | Statewide outreach services | 236.6    | 236.6 |
|     | Subtotal                    | 16,455.9 |       |

|                        |             |             |          |           |
|------------------------|-------------|-------------|----------|-----------|
| TOTAL HIGHER EDUCATION | 792,777.0   | 1,513,556.2 | 42,285.7 | 584,416.6 |
|                        | 2,933,035.5 |             |          |           |

### K. PUBLIC SCHOOL SUPPORT

Except as otherwise provided, unexpended balances of appropriations made in this subsection shall not revert at the end of fiscal year 2019.

#### 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: | 2,536,958.2 | 5,000.0 | 2,541,958.2 |
|-----------------|-------------|---------|-------------|

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 2018-2019 school year and then, on verification of the number of units statewide for fiscal year 2019 but no later than January 31, 2019 the secretary of public education may adjust the program unit value.

Notwithstanding the provisions of the School Personnel Act, the secretary of public education shall ensure that no full-time level one teacher receives a base salary less than thirty-six thousand dollars (\$36,000), no full-time level two teacher receives a base salary less than forty-four thousand dollars (\$44,000) and no full-time level three-A teacher receives a base salary less than fifty-four thousand dollars (\$54,000) during fiscal year 2019.

The final program cost calculation of a first-year charter school shall use membership reported on the first reporting date of the current fiscal year in the calculation of program units.

For fiscal year 2019, if the program cost made available is insufficient to meet the level of state support required by the special education maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act, the public education department shall reduce the program cost in an amount that equals the projected shortfall and distribute that amount to school districts and charter schools in the same manner and on the same basis as the state equalization guarantee distribution to meet the level of support required by Part B of the federal Individuals with Disabilities Education Act for fiscal year 2019 and shall reset the final unit value to account for the reduction.

~~[A separate school established to provide an educational program at a specific grade level different from the primary educational program of the school district in which the school is located, including but not limited to a vocational, alternative education, early college high or credit recovery program or school to which a student must apply for admission or in which student placement is determined by criteria other than the geographic location of the student's residence, shall not be classified as a public school for purposes of generating size adjustment program units unless it is a school established to serve students residing within a defined geographic area that accepts students who transfer from outside that area, including transfers in accordance with Subsection D of Section 22-2E-4 NMSA 1978.] 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[~~; provided that no school district or charter school shall generate elementary physical education program units in fiscal year 2019 in excess of the total average number of elementary students enrolled on the second and third reporting dates of the 2017-2018 school year multiplied by the cost differential factor of six one hundredths as established in Section 22-8-23.7 NMSA 1978.~~] *LINE-ITEM VETO*

~~[The general fund appropriation to the state equalization guarantee distribution includes sufficient funding to increase the cost differential factor of the at-risk index from 0.106 to 0.13 for purposes of calculating at-risk program units pursuant to Section 22-8-18 NMSA 1978.]~~ The public education department shall monitor and evaluate the ways in which school districts and individual schools use funding generated through the additional at-risk program units and the intended outcomes pursuant to Section 22-8-23.3 NMSA 1978 for fiscal year 2019 ~~[and report its findings to the legislative education study committee and the legislative finance committee on or before February 1, 2019].~~ *LINE-ITEM VETO*

The public education department shall not approve the operating budget of any school district or charter school to operate a four-day school week during the 2018-2019 school year that did not provide a four-day school week during the 2017-2018 school year.

~~[The department shall not approve nor certify an operating budget of any school district or charter school with a proportion of spending for direct instruction and instructional support services lower than the average proportion of spending for direct instruction and instructional support services of comparable school districts or charter schools with similar student membership unless that school district or charter school demonstrates the proportion of spending for direct instruction and instructional support services is sufficient to provide a free and appropriate public education to students that is uniform with all other students in the state.]~~ *LINE-ITEM VETO*

Funds appropriated from the general fund to the state equalization guarantee distribution or any cash balances derived from appropriations from the general fund to the state equalization guarantee distribution in any year shall not be used to fund any litigation against the state unless or until a court issues a final decision in favor of a plaintiff school district or charter school and all legal remedies have been exhausted.

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from federal Mineral Leasing Act receipts otherwise unappropriated.

The general fund appropriation to the state equalization guarantee distribution reflects the deduction of federal revenue pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978 that includes payments to school districts and charter schools commonly known as "impact aid funds" pursuant to 20 U.S.C. 7701 et seq., and formerly known as "PL874 funds."

The other state funds appropriation is from the balances received by the public education department pursuant to Section 66-5-44 NMSA 1978.

~~[Within thirty calendar days of initial submission, the secretary of public education shall process and pay each request for reimbursement submitted to the public education department by a school district or charter school.]~~ *LINE-ITEM VETO*

~~[The department of finance and administration may adjust a school district's or charter school's monthly state equalization guarantee distribution progress payment to provide flexibility to meet cash flow~~

~~needs, provided that no school district or charter school shall receive an annual state equalization guarantee distribution that is more than their proportionate fiscal year 2019 share.] LINE-ITEM VETO~~

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2019 from appropriations made from the general fund shall revert to the general fund.

Performance measures:

- (a) Outcome: Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in reading 30%
- (b) Outcome: Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics 30%
- (c) Outcome: Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in reading 30%
- (d) Outcome: Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics 30%
- (e) Quality: Current four-year cohort graduation rate using shared accountability 75%
- (f) Outcome: Percent of dollars budgeted by districts with fewer than 750 members for instructional support, budget categories 1000, 2100 and 2200 75%
- (g) Outcome: Percent of dollars budgeted by districts with 750 members or greater for instructional support, budget categories 1000, 2100 and 2200 75%
- (h) Outcome: Percent of dollars budgeted by charter schools for instructional support, budget categories 1000, 2100 and 2200 67%
- (i) Outcome: Percent of recent New Mexico high school graduates who take remedial courses in higher education at two-year and

four-year schools <35%

(2) ~~[State-chartered charter school]~~ transportation distribution: *LINE-ITEM VETO*

|                 |         |         |
|-----------------|---------|---------|
| Appropriations: | 2,254.7 | 2,254.7 |
|-----------------|---------|---------|

~~[The appropriation to the state-chartered charter school transportation distribution shall only be allocated to state-chartered charter schools. The public education department shall calculate an adjustment factor for state-chartered charter schools and shall calculate the distribution for state-chartered charter schools from the state-chartered charter school transportation distribution using the state-chartered charter school adjustment factor pursuant to the provisions of Sections 22-8-29.1 and 22-8-29.4 NMSA 1978. Rental fees for contractor-owned buses providing transportation services to a state-chartered charter school shall be paid out of the state-chartered charter school transportation distribution.]~~ *LINE-ITEM VETO*

Notwithstanding the provisions of Section 22-8-26 NMSA 1978, 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 during fiscal year 2019 shall deposit one hundred percent of the remaining balance in the transportation emergency fund at the end of fiscal year 2019.

(3) ~~[School district]~~ transportation distribution: *LINE-ITEM VETO*

|                 |          |         |          |
|-----------------|----------|---------|----------|
| Appropriations: | 94,086.2 | 2,500.0 | 96,586.2 |
|-----------------|----------|---------|----------|

~~[The appropriations to the school district transportation distribution shall only be allocated to school districts. The public education department shall calculate an adjustment factor for school districts and shall calculate the distribution for school districts from the school district transportation distribution using the school district adjustment factor pursuant to the provisions of Sections 22-8-29.1 and 22-8-29.4 NMSA 1978. Rental fees for contractor-owned buses providing transportation services to a school district shall be paid out of the school district transportation distribution.]~~ *LINE-ITEM VETO*

The other state funds appropriation to the school district transportation distribution is from the public school capital outlay fund.

(4) 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 2019 from appropriations made from the general fund shall revert to the general fund.



Subtotal 2,643,099.1

**FEDERAL FLOW THROUGH:**

Appropriations: 443,479.2 443,479.2

Subtotal 443,479.2

**INSTRUCTIONAL MATERIALS:**

(1) Instructional material fund:

Appropriations: 8,000.0 4,500.0 12,500.0

The general fund appropriation to the instructional material fund is made from federal Mineral Leasing Act receipts.

The other state funds appropriation to the instructional material fund is made from the public school capital outlay fund.

The public education department shall not calculate, allocate or withhold any entitlement or distribution for private school students or private schools from the instructional material fund unless the New Mexico supreme court enters a final decision in Moses, et al. v. Ruskowski, et al., No. S-1-SC-34974, finding an allocation from the instructional material fund for private school students or private schools does not violate the constitution of the state of New Mexico.

(2) Dual-credit instructional materials:

Appropriations: 1,000.0 1,000.0

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 2019 from appropriations made from the general fund shall revert to the general fund.

Subtotal 13,500.0

**INDIAN EDUCATION FUND:**

Appropriations: 1,824.6 675.4 2,500.0

The general fund appropriation to the Indian education fund of the public education department includes four hundred thousand dollars (\$400,000) for a national nonprofit organization to provide teaching support in schools with a high proportion of Native American students.

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

Any unexpended balances in the standards-based assessments appropriation remaining at the end of fiscal year 2019 from appropriations made from the general fund shall revert to the general fund.

Subtotal 6,000.0

TOTAL PUBLIC SCHOOL SUPPORT 2,652,423.7 12,675.4 443,479.2  
3,108,578.3

GRAND TOTAL FISCAL YEAR 2019

APPROPRIATIONS 6,228,758.2 4,029,641.5 558,604.8 7,560,502.1 18,377,506.6

**Chapter 73 Section 5 Laws 2018**

| Item | General Fund | Other State Funds | Intrnl Svc Funds/Inter-Agency Trnsf | Federal Funds | Total/Target |
|------|--------------|-------------------|-------------------------------------|---------------|--------------|
|------|--------------|-------------------|-------------------------------------|---------------|--------------|

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 2018 and 2019. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2019 shall revert to the appropriate fund.

(1) LEGISLATURE 1,100.0 1,100.0

For capitol repairs, security and infrastructure upgrades. The appropriation is from legislative cash balances.

(2) LEGISLATURE 250.0 250.0

For ongoing census and redistricting activities. The appropriation is from legislative cash balances.

(3) LEGISLATURE 100.0 100.0

To coordinate with the legislative education study committee for an education gap analysis and benchmarking study to be conducted by a national education research organization that studies education systems of high-performing countries contingent on

receipt of one hundred thousand dollars (\$100,000) in matching funds from other than state sources.

~~[(4) LEGISLATURE 200.0 200.0]~~

~~For the capitol buildings planning commission for master planning and statewide inventory purposes.] LINE-ITEM VETO~~

(5) ADMINISTRATIVE OFFICE

OF THE COURTS 1,000.0 1,000.0

For the costs associated with reforming New Mexico's guardianship system contingent on enactment of Senate Bill 19 or similar legislation of the second session of the fifty-third legislature. This appropriation is from the unexpended operating fund balances of the developmental disabilities planning council.

~~[(6) ADMINISTRATIVE OFFICE~~

~~OF THE COURTS 50.0 50.0]~~

~~For an armed security guard and security equipment at the San Miguel county magistrate court.] LINE-ITEM VETO~~

~~[(7) ADMINISTRATIVE OFFICE~~

~~OF THE COURTS 260.0 260.0]~~

~~To purchase recording equipment for magistrate courts contingent on enactment of House Bill 74 or similar legislation of the second session of the fifty-third legislature.] LINE-ITEM VETO~~

(8) ADMINISTRATIVE OFFICE

OF THE COURTS 1,125.0 1,125.0

To purchase redaction software for electronic case documents. The other state funds appropriation is from the electronic services fund.

~~[(9) ADMINISTRATIVE OFFICE~~

~~OF THE COURTS 50.0 50.0]~~

~~To study security needs statewide in appellate, district, metropolitan and magistrate courts.] LINE-ITEM VETO~~

(10) ADMINISTRATIVE OFFICE

OF THE COURTS 250.0 250.0

To update the odyssey system to allow for electronic filing of criminal cases.

~~[(11) FOURTH JUDICIAL DISTRICT COURT 25.0 25.0]~~

~~For case mediation.] LINE-ITEM VETO~~

(12) EIGHTH JUDICIAL DISTRICT COURT 30.0 30.0

To purchase a vehicle.

(13) SECOND JUDICIAL DISTRICT ATTORNEY 600.0 500.0  
1,100.0

For a data-driven prosecution pilot program. The other state funds appropriation is from the ignition interlock fund.

(14) SECOND JUDICIAL DISTRICT ATTORNEY 600.0 600.0

For case prosecution.

(15) SECOND JUDICIAL DISTRICT ATTORNEY 800.0 800.0

To address case backlog.

(16) SECOND JUDICIAL DISTRICT ATTORNEY

Any unexpended balances remaining at the end of fiscal year 2019 from appropriations made in Subsections 13, 14 and 15 of this section to the second judicial district attorney shall not revert.

(17) EIGHTH JUDICIAL DISTRICT ATTORNEY 100.0 100.0

To hire one full-time equivalent term attorney.

(18) NINTH JUDICIAL DISTRICT ATTORNEY 100.0 100.0

For case prosecution.

(19) TWELFTH JUDICIAL DISTRICT ATTORNEY 65.0 65.0

For case prosecution.

(20) ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS



For litigation services related to tax protests.

~~[(27) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 280.0 280.0~~

For affordable housing activities pursuant to the provisions of the New Mexico Housing Trust Fund Act.

~~(28) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 50.0 50.0~~

~~For civil legal services.] LINE-ITEM VETO~~

(29) DEPARTMENT OF FINANCE

AND ADMINISTRATION 200.0 200.0

For comprehensive annual financial report software support.

~~[(30) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 200.0 200.0~~

For disbursement to the New Mexico mortgage finance authority for regional housing oversight.

(31) DEPARTMENT OF FINANCE

~~AND ADMINISTRATION 100.0 120.0 220.0~~

For disbursement to the renewable energy transmission authority for operating costs in fiscal year 2019. 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. The other state funds appropriation is from nonstate sources.

(32) DEPARTMENT OF FINANCE

~~AND ADMINISTRATION 400.0 400.0~~

~~For law enforcement-assisted diversion programs in Santa Fe, Bernalillo and Dona Ana counties.] LINE-ITEM VETO~~

(33) DEPARTMENT OF FINANCE

AND ADMINISTRATION 600.0 600.0

For the payment card industry and data security standards compliance program.

(34) DEPARTMENT OF FINANCE

AND ADMINISTRATION 300.0 300.0

For the local update of census addresses program.

(35) DEPARTMENT OF FINANCE

AND ADMINISTRATION 50.0 50.0

For the transition of the new administration in fiscal year 2019. Funds shall be released pursuant to state board of finance approval.

~~[(36) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 70.0 70.0~~

To purchase and equip two vehicles for the sheriff's office in San Miguel county.

(37) DEPARTMENT OF FINANCE

~~AND ADMINISTRATION 90.0 90.0~~

To purchase and equip vehicles for the sheriff's office in Torrance county.

(38) DEPARTMENT OF FINANCE

~~AND ADMINISTRATION 800.0 800.0~~

For a state match for a federal allocation to enhance broadband deployment efforts. The general fund appropriation includes four hundred thousand dollars (\$400,000) for the middle Rio Grande consortium including Cochiti pueblo, Santo Domingo pueblo, San Felipe pueblo and Santa Ana pueblo and four hundred thousand dollars (\$400,000) for the United States highway 550 corridor including the town of Bernalillo west to the continental divide for Zia pueblo and Jemez pueblo with future connectivity to Navajo nation chapters.

(39) DEPARTMENT OF FINANCE

~~AND ADMINISTRATION 200.0 200.0~~

~~For an emergency communications tower on the Jicarilla Apache nation to provide coverage for unincorporated areas to improve communications for emergency management for northern Sandoval county, northwestern Rio Arriba county and eastern San Juan county.]~~ *LINE-ITEM VETO*

(40) DEPARTMENT OF FINANCE

AND ADMINISTRATION 900.0 900.0

To maintain and repair a hangar expansion for the Roswell industrial air center.

(41) PUBLIC EMPLOYEES

RETIREMENT ASSOCIATION 89.0 89.0

To process employer social security requests.

(42) PERSONNEL BOARD 200.0 200.0

For scanning personnel records.

(43) PERSONNEL BOARD 335.0 335.0

For software licenses.

(44) PERSONNEL BOARD 150.0 150.0

For the finalization of fiscal year 2009 back pay.

(45) PUBLIC EMPLOYEE

LABOR RELATIONS BOARD 7.3 7.3

For employee insurance costs.

(46) BORDER AUTHORITY 30.0 30.0

For the New Mexico-Chihuahua and New Mexico-Sonora commissions.

(47) TOURISM DEPARTMENT 300.0 300.0

For special olympics ~~[to provide sports training]~~ for New Mexicans with intellectual disabilities. *LINE-ITEM VETO*

(48) ECONOMIC DEVELOPMENT



DEPARTMENT 5,000.0 5,000.0

For economic development projects pursuant to the Local Economic Development Act.

(49) ECONOMIC DEVELOPMENT

DEPARTMENT 100.0 100.0

For the solo-worker program.

(50) ECONOMIC DEVELOPMENT

DEPARTMENT

The period of time for expending the six million nine hundred thousand dollars (\$6,900,000) appropriated from the general fund in Subsection 11 of Section 5 of Chapter 135 of Laws 2017 for economic development projects pursuant to the Local Economic Development Act is extended through fiscal year 2019.

(51) ECONOMIC DEVELOPMENT

DEPARTMENT 150.0 150.0

For the development and implementation of a targeted marketing campaign aimed at attracting retirees to move to New Mexico.

(52) ECONOMIC DEVELOPMENT

DEPARTMENT 5,000.0 5,000.0

To the development training fund for the job training incentive program.

(53) REGULATION AND LICENSING

DEPARTMENT 60.0 60.0

For training of multidiscipline inspectors.

(54) SPACEPORT AUTHORITY 10,000.0 10,000.0

For the planning and construction of an aerospace satellite testing and development hangar. The appropriation is contingent on the New Mexico spaceport authority contracting with a vendor specializing in advanced aerospace products and technologies to use the hangar.

(55) CULTURAL AFFAIRS DEPARTMENT 1,000.0  
1,000.0

For agency operational expenses.

(56) CULTURAL AFFAIRS DEPARTMENT 500.0 500.0

For maintenance and repairs of museums, historic sites and other facilities.

~~[(57) CULTURAL AFFAIRS DEPARTMENT 100.0 100.0~~

~~For schools to participate in the national history day program.] LINE-ITEM VETO~~

(58) NEW MEXICO LIVESTOCK BOARD 100.0 100.0

For operational costs and vehicle replacement.

(59) NEW MEXICO LIVESTOCK BOARD 50.0 50.0

For wild horse habitat mapping research.

(60) DEPARTMENT OF GAME AND FISH 500.0 500.0

To determine the impacts of the Mexican wolf population on the elk population within the wolf recovery area. The appropriation is from the big game enhancement fund.

(61) DEPARTMENT OF GAME AND FISH 500.0 500.0

To rehabilitate a concrete flood irrigation system at the Bernardo waterfowl management area. The appropriation is from the habitat management fund.

(62) DEPARTMENT OF GAME AND FISH 500.0 500.0

To replace boats and other off-highway vehicles for law enforcement. The appropriation is from the game protection fund.

(63) ENERGY, MINERALS AND

NATURAL RESOURCES DEPARTMENT

The period of time for expending up to two hundred fifty thousand dollars (\$250,000) from the general fund and matching funds of one hundred twenty-five thousand dollars (\$125,000) each from the city of Carlsbad and Eddy county appropriated in Subsection 14 of Section 5 of Chapter 135 of Laws 2017 for a design-build request for proposals for remediation of the Carlsbad brine well is extended through fiscal year 2019.

(64) ENERGY, MINERALS AND

|                              |         |
|------------------------------|---------|
| NATURAL RESOURCES DEPARTMENT | 2,000.0 |
| 2,000.0                      |         |

For remediation of the Carlsbad brine well. Notwithstanding the provisions of Section 74-6B-7 NMSA 1978 or other substantive law, one million dollars (\$1,000,000) is appropriated in fiscal year 2018 and one million dollars (\$1,000,000) is appropriated in fiscal year 2019 from the corrective action fund to the Carlsbad brine well remediation fund.

(65) ENERGY, MINERALS AND

|                              |       |       |
|------------------------------|-------|-------|
| NATURAL RESOURCES DEPARTMENT | 100.0 | 100.0 |
|------------------------------|-------|-------|

For watershed restoration.

(66) ENERGY, MINERALS AND

|                              |         |
|------------------------------|---------|
| NATURAL RESOURCES DEPARTMENT | 3,000.0 |
| 3,000.0                      |         |

For remediation of the Carlsbad brine well.

(67) ENERGY, MINERALS AND

|                              |          |
|------------------------------|----------|
| NATURAL RESOURCES DEPARTMENT | 30,000.0 |
| 30,000.0                     |          |

Notwithstanding provisions of Sections 67-3-65 and 67-3-65.1 NMSA 1978, thirty million dollars (\$30,000,000) is appropriated from the state road fund to the Carlsbad brine well remediation fund for expenditure in fiscal years 2019 through 2021; provided that not more than ten million dollars (\$10,000,000) shall be expended from the state road fund in each fiscal year. The appropriation is contingent upon enactment of Senate Bill 226 or similar legislation of the second session of the fifty-third legislature and receipt by the secretary of energy, minerals and natural resources of certification by governing boards of Eddy county and of the city of Carlsbad that matching funds of one million three hundred forty thousand dollars (\$1,340,000) each will be transferred annually for fiscal years 2019 through 2021 to the fund by the county and city, respectively. Any unexpended balance at the end of fiscal year 2021 shall revert to each original source of funds in the proportionate shares contributed to the fund by each source.

|                                    |      |      |
|------------------------------------|------|------|
| (68) INTERTRIBAL CEREMONIAL OFFICE | 27.0 | 27.0 |
|------------------------------------|------|------|

For operational costs.

~~[(69) STATE ENGINEER 185.0 185.0]~~

~~For the weather modification program in Lea and Roosevelt counties.] LINE-ITEM VETO~~

(70) STATE ENGINEER 3,000.0 3,000.0

For interstate compacts litigation.

(71) STATE ENGINEER 200.0 200.0

To study and design flood control for the city of Hatch.

~~[(72) INDIAN AFFAIRS DEPARTMENT 196.0 196.0]~~

~~For a back-up generator for the Zuni water well.~~

(73) INDIAN AFFAIRS DEPARTMENT 100.0 100.0

For a self-help housing program in Jemez Pueblo.

(74) INDIAN AFFAIRS DEPARTMENT 100.0 100.0

To study the general fund impact of members of federally recognized tribes receiving health care from state and other facilities other than United States Indian health services facilities and tribes.

(75) INDIAN AFFAIRS DEPARTMENT 100.0 100.0

To design and construct a storm and surface water control system in Ohkay Owingeh in Rio Arriba county.

(76) AGING AND LONG-TERM

~~SERVICES DEPARTMENT 400.0 400.0~~

~~For a reserve for emergency advancements in the aging network program.] LINE-ITEM VETO~~

(77) AGING AND LONG-TERM

SERVICES DEPARTMENT 75.0 75.0

To enhance and expand foster grandparent and senior companion programs in rural areas ~~[of Rio Arriba, San Miguel and Guadalupe counties].~~ LINE-ITEM VETO

(78) AGING AND LONG-TERM

|                     |       |       |
|---------------------|-------|-------|
| SERVICES DEPARTMENT | 200.0 | 200.0 |
|---------------------|-------|-------|

For senior olympics' hosting costs.

|                                |       |       |
|--------------------------------|-------|-------|
| (79) HUMAN SERVICES DEPARTMENT | 300.0 | 300.0 |
|--------------------------------|-------|-------|

For a demonstration project providing evidence-based residential substance use disorder treatment [~~in Rio Arriba and Taos counties~~] *LINE-ITEM VETO*.

|                                |       |       |
|--------------------------------|-------|-------|
| (80) HUMAN SERVICES DEPARTMENT | 375.0 | 375.0 |
|--------------------------------|-------|-------|

For statewide food banks.

|                                |       |       |
|--------------------------------|-------|-------|
| (81) HUMAN SERVICES DEPARTMENT | 100.0 | 100.0 |
|--------------------------------|-------|-------|

For housing for people who are homeless or at risk of homelessness due to behavioral health disabilities.

|                                |       |       |
|--------------------------------|-------|-------|
| (82) HUMAN SERVICES DEPARTMENT | 500.0 | 500.0 |
|--------------------------------|-------|-------|

Contingent on enactment of House Bill 20 or similar legislation of the second session of the fifty-third legislature, five hundred thousand dollars (\$500,000) is appropriated from the general fund to the human services department to assist jails and prisons to initiate a recidivism reduction program.

(83) WORKFORCE SOLUTIONS DEPARTMENT

Any unexpended balances in the workforce solutions department remaining at the end of fiscal year 2018 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2019.

(84) WORKERS' COMPENSATION

|                |       |       |
|----------------|-------|-------|
| ADMINISTRATION | 250.0 | 250.0 |
|----------------|-------|-------|

For a third-party, independent analysis of the state workers' compensation system. The appropriation is from the workers' compensation administration fund of the workers' compensation administration.

(85) DIVISION OF VOCATIONAL REHABILITATION

Any unexpended balances in the division of vocational rehabilitation remaining at the end of fiscal year 2018 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2019.

(86) DEVELOPMENTAL DISABILITIES

PLANNING COUNCIL 65.0 65.0

To purchase a ramp van.

(87) DEPARTMENT OF HEALTH 80.0 80.0

For dance and fitness programs in the schools.

(88) DEPARTMENT OF HEALTH

Any unexpended balances in the developmental disabilities support program of the department of health remaining at the end of fiscal year 2018 from appropriations made from the general fund shall not revert and shall be expended in fiscal year 2019 to support the developmental disabilities medicaid waiver program in the developmental disabilities support program of the department of health.

~~[(89) DEPARTMENT OF HEALTH 4.0 4.0]~~

~~To survey the Los Lunas medical center fenced cemetery in preparation for potential transfer to another entity.] LINE-ITEM VETO~~

(90) VETERANS' SERVICES DEPARTMENT 85.0 85.0

To purchase and equip two vans.

(91) CHILDREN, YOUTH AND

FAMILIES DEPARTMENT 100.0 100.0

For early childhood teacher education scholarships.

(92) CHILDREN, YOUTH AND

FAMILIES DEPARTMENT 250.0 250.0

For start-up costs for a medicaid home visiting pilot program for expenditure in fiscal year 2019.

(93) CORRECTIONS DEPARTMENT 880.0 880.0

For the purchase of body scanners in public prison facilities.

(94) CORRECTIONS DEPARTMENT

The period of time for expending two million dollars (\$2,000,000) appropriated from the general fund and three million dollars (\$3,000,000) appropriated from the land grant permanent fund in Subsection 24 of Section 5 of Chapter 135 of Laws 2017 for inmate population growth in public and private prisons, the treatment of hepatitis c and custodial staff overtime is extended through fiscal year 2019 and may be used for facility maintenance.

(95) CORRECTIONS DEPARTMENT

The period of time for expending two million dollars (\$2,000,000) appropriated from the general fund in Subsection 25 of Section 5 of Chapter 135 of Laws 2017 for inmate population growth in public and private prisons, the treatment of hepatitis c and custodial staff overtime is extended through fiscal year 2019 and may be used for facility maintenance.

(96) CRIME VICTIMS REPARATION

|            |       |       |
|------------|-------|-------|
| COMMISSION | 145.0 | 145.0 |
|------------|-------|-------|

For services to victims of human trafficking.

(97) CRIME VICTIMS REPARATION

|            |      |      |
|------------|------|------|
| COMMISSION | 30.0 | 30.0 |
|------------|------|------|

For services to victims of sexual assault.

|                                  |       |       |
|----------------------------------|-------|-------|
| (98) DEPARTMENT OF PUBLIC SAFETY | 100.0 | 100.0 |
|----------------------------------|-------|-------|

For the establishment of a flash roll to be used in criminal investigations by the New Mexico state police.

|   |                  |                  |
|---|------------------|------------------|
| <del>(99) DEPARTMENT OF PUBLIC SAFETY</del> | <del>500.0</del> | <del>500.0</del> |
|---|------------------|------------------|

~~To provide the local government share of federal community-oriented policing service grants.] LINE-ITEM VETO~~

(100) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending one million two hundred thousand dollars (\$1,200,000) appropriated from the general fund in Subsection 47 of Section 5 of Chapter 11 of Laws 2016 as extended in Subsection 27 of Section 5 of Chapter 135 of Laws 2017 for processing of backlogged rape kits is extended through fiscal year 2019.

|                                   |       |       |
|-----------------------------------|-------|-------|
| (101) DEPARTMENT OF PUBLIC SAFETY | 728.4 | 728.4 |
|-----------------------------------|-------|-------|





(110) PUBLIC EDUCATION DEPARTMENT 100.0 100.0

For advanced placement tests.

(111) PUBLIC EDUCATION DEPARTMENT 1,000.0  
1,000.0

For emergency support to school districts experiencing shortfalls. All requirements for distribution shall be made in accordance with Section 22-8-30 NMSA 1978.

(112) PUBLIC EDUCATION DEPARTMENT 5,000.0  
5,000.0

For excellence in teaching awards for public school teachers in fiscal year 2019. Each classroom teacher who is teaching in the 2018-2019 school year who achieved an exemplary performance evaluation for the 2017-2018 school year and whose 2017-2018 annual teacher evaluation included three years of student achievement data shall receive a one-time additional compensation increase of up to five thousand dollars (\$5,000) in fiscal year 2019. A teacher who meets these qualifications and either taught a secondary math or science class in the 2017-2018 school year and is teaching a secondary math or science class in the 2018-2019 school year or who teaches in a school identified as a more rigorous intervention school as defined by New Mexico's Every Student Succeeds Act state plan in the 2018-2019 school year shall receive an additional, one-time additional compensation increase of up to five thousand dollars (\$5,000). The public education department may reduce one-time additional compensation amounts to stay within the appropriation. ~~[The public education department shall not distribute any one-time additional compensation increases allowed pursuant to this section to any eligible teachers who teach in a school district or charter school with an established collective bargaining unit unless the collective bargaining unit has approved the one-time additional compensation increases.]~~ *LINE-ITEM VETO*

(113) PUBLIC EDUCATION DEPARTMENT 500.0 500.0

For implementation of new science, technology, engineering and mathematics science standards.

(114) PUBLIC EDUCATION DEPARTMENT 1,200.0  
1,200.0

For legal fees related to defending the state in Martinez v. state of New Mexico No. D-101-CV-2014-00793 and Yazzie v. state of New Mexico No. D-101-CV-2014-02224 ~~[for expenditure in fiscal year 2019].~~ *LINE-ITEM VETO*

(115) PUBLIC EDUCATION DEPARTMENT 225.0 225.0

For New Mexico grown fresh fruits and vegetables.

~~[(116) PUBLIC EDUCATION DEPARTMENT 50.0 50.0]~~

For the ready to learn early childhood program.

(117) PUBLIC EDUCATION DEPARTMENT 5,000.0  
5,000.0

~~To restore the operational cash balances of the school districts and charter schools whose fiscal year 2017 state equalization guarantee distributions were reduced in accordance with Section 2 of Chapter 3 of Laws 2017 in proportion to those school districts' and charter schools' reductions under Section 2 of Chapter 3 of Laws 2017. The appropriation is contingent on August 2018 consensus general fund revenue estimates for preliminary fiscal year 2018 and fiscal year 2019 year end general fund reserves of at least ten percent and is for expenditure in fiscal year 2019.] LINE-ITEM VETO~~

(118) PUBLIC EDUCATION DEPARTMENT 300.0 300.0

To purchase equipment and software for automated text messaging systems in school districts or state-chartered charter schools statewide that notify parents of high school student absences and tests.

(119) HIGHER EDUCATION DEPARTMENT 30.0 30.0

For adult basic education.

~~[(120) HIGHER EDUCATION DEPARTMENT 50.0 50.0]~~

~~For the New Mexico mathematics, engineering, science achievement program.] LINE-ITEM VETO~~

(121) HIGHER EDUCATION DEPARTMENT 4,000.0  
4,000.0

For legislative lottery tuition scholarships.

~~[(122) UNIVERSITY OF NEW MEXICO 200.0 200.0]~~

For the indigenous design and planning institute.

(123) UNIVERSITY OF NEW MEXICO 100.0 100.0

~~For the New Mexico high school mock trial program.] LINE-ITEM VETO~~

(124) UNIVERSITY OF NEW MEXICO 475.0 475.0

For the office of medical investigator for [~~loan payments to purchase a magnetic resonance~~] imaging scanner. *LINE-ITEM VETO*

~~[(125) UNIVERSITY OF NEW MEXICO 200.0 200.0]~~

For the university of New Mexico bureau of business and economic research to study uranium clean-up training programs on the Navajo Nation.

(126) UNIVERSITY OF NEW MEXICO 61.0 61.0

~~For the wildlife law education program.] *LINE-ITEM VETO*~~

(127) UNIVERSITY OF NEW MEXICO 100.0 100.0

To develop suicide prevention strategies and provide training and workforce development to tribal communities.

(128) NEW MEXICO STATE UNIVERSITY 273.0 273.0

For a sunspot solar observatory.

~~[(129) NEW MEXICO STATE UNIVERSITY 50.0 50.0]~~

~~For the college assistance migrant program.] *LINE-ITEM VETO*~~

(130) NEW MEXICO STATE UNIVERSITY 500.0 500.0

For the water resource research institute contingent on matching funds from nonstate sources.

(131) NEW MEXICO STATE UNIVERSITY 200.0 200.0

To advertise New Mexico chile.

~~[(132) NEW MEXICO HIGHLANDS UNIVERSITY 100.0 100.0]~~

For the Native American social workers institute school of social work for curriculum development, training and recruitment.

(133) EASTERN NEW MEXICO UNIVERSITY 400.0 400.0

~~For state chartered career and technical student organizations that enhance and accelerate career technical education.] *LINE-ITEM VETO*~~

(134) EASTERN NEW MEXICO UNIVERSITY 50.0 50.0

For the robotics program.

~~[(135) EASTERN NEW MEXICO UNIVERSITY 100.0 ----- 100.0~~

~~To purchase equipment for the public broadcasting service station.] LINE-ITEM VETO~~

(136) NEW MEXICO INSTITUTE OF

MINING AND TECHNOLOGY 245.0 245.0

For a wastewater filter system pilot.

(137) SAN JUAN COLLEGE 115.0 115.0

For campus security.

(138) PUBLIC SCHOOL SUPPORT

After calculation of the final state equalization guarantee distribution for fiscal year 2018 and prior to the end of fiscal year 2018, the public education department may reset the final unit value in June 2018 to distribute that portion of the unallocated appropriation to the state equalization guarantee distribution in Subsection K of Section 4 of Chapter 135 of Laws 2017 not in excess of ten million dollars (\$10,000,000).

(139) COMPUTER SYSTEMS

ENHANCEMENT FUND 21,553.3 21,553.3

For transfer to the computer systems enhancement fund for system replacements or enhancements.

TOTAL SPECIAL APPROPRIATIONS 156,324.0 36,395.0 1,500.0  
194,219.0

### Chapter 73 Section 6 Laws 2018

| Item | General Fund | Other State Funds | Intrnl Svc Funds/Inter-Agency Trnsf | Federal Funds | Total/Target |
|------|--------------|-------------------|-------------------------------------|---------------|--------------|
|------|--------------|-------------------|-------------------------------------|---------------|--------------|

Section 6. SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS.--The following amounts are appropriated from the general fund or other funds as indicated for expenditure in fiscal year 2018 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 2018 for the purpose specified and approval by the department of finance



(9) SECRETARY OF STATE 1,390.0 1,390.0

For a shortfall in the public election fund.

(10) SPACEPORT AUTHORITY 313.0 313.0

To replace excess gross receipts tax revenues transferred from the New Mexico finance authority.

(11) INDIAN AFFAIRS DEPARTMENT 789.9 789.9

To correct a deficiency in the Indian affairs department operating account due to a general fund over-reversion in fiscal year 2017.

(12) DEPARTMENT OF HEALTH 269.3 269.3

For a new internal quality review unit in the health certification, licensing and oversight program of the department of health to replace the independent Jackson lawsuit community practice review.

(13) DEPARTMENT OF HEALTH 2,000.0 2,000.0

For a projected shortfall in medicaid matching revenue for the developmental disabilities medicaid waiver.

(14) DEPARTMENT OF HEALTH 375.0 375.0

For a projected shortfall in the facilities management program.

(15) DEPARTMENT OF HEALTH 700.0 700.0

For costs related to compliance with the federal REAL ID Act of 2005.

(16) DEPARTMENT OF HEALTH 1,300.0 1,300.0

To address a projected increase in the number of children referred and determined eligible for the family infant toddler program.

(17) VETERANS' SERVICES DEPARTMENT 300.0 300.0

For start-up costs in the memory care unit of the veterans home hospital opening in fiscal year 2018.

(18) CORRECTIONS DEPARTMENT 1,713.3 [1,713.3]  
3,426.6 *LINE-ITEM VETO*

For radio communication costs due to the department of information technology for fiscal year 2018. [~~The internal service funds/interagency transfers appropriation is from the equipment replacement fund.~~] *LINE-ITEM VETO*

(19) CORRECTIONS DEPARTMENT 2,602.4 [2,602.4]  
 5,204.8 *LINE-ITEM VETO*

To pay department of information technology radio communication costs for fiscal year 2016 and fiscal year 2017. [~~The internal service funds/interagency transfers appropriation is from the equipment replacement fund.~~] *LINE-ITEM VETO*

TOTAL SUPPLEMENTAL AND

DEFICIENCY APPROPRIATIONS 14,585.4 180.0 4,315.7  
 19,081.1

**Chapter 73 Section 7 Laws 2018**

| Item | General State Fund | Other Funds | Intrnl Svc Funds/Inter-Agency Trnsf | Federal Funds | Total/Target |
|------|--------------------|-------------|-------------------------------------|---------------|--------------|
|------|--------------------|-------------|-------------------------------------|---------------|--------------|

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 2018, 2019 and 2020. Unless otherwise indicated, any unexpended balances remaining at the end of fiscal year 2020 shall revert to the computer systems enhancement fund or other funds as indicated. For each executive branch agency project, the state chief information officer shall certify compliance with the project certification process prior to the allocation of twenty million five hundred sixty-one thousand three hundred dollars (\$20,561,300) by the department of finance and administration from the funds for the purposes specified. The judicial information systems council shall certify compliance to the department of finance and administration for judicial branch projects. For executive branch agencies, all hardware and software purchases funded through appropriations made in Sections 4, 5, 6 and 7 of this act shall be procured using consolidated purchasing led by the state chief information officer and state purchasing division to achieve economies of scale and to provide the state with the best unit price.

1) ADMINISTRATIVE OFFICE  
 OF THE COURTS 115.0 115.0

To purchase and implement language access system scheduling software for interpreter services.

(2) ADMINISTRATIVE OFFICE  
OF THE COURTS                      275.0                      275.0

To replace network switches for all courts statewide with the exception of the second judicial district court and metropolitan court in Albuquerque.

(3) ADMINISTRATIVE OFFICE  
OF THE COURTS                      372.0                      372.0

To purchase and install software and hardware for the video network operations center to provide video and audio communications to various courts statewide.

(4) SECOND JUDICIAL DISTRICT COURT                      230.0                      230.0

To purchase hardware and software for network infrastructure upgrades including switches.

(5) TAXATION AND REVENUE DEPARTMENT                      1,150.0  
1,150.0

To plan the implementation of advanced data analytic tools to reduce fraud and improve detection and collection.

(6) TAXATION AND REVENUE DEPARTMENT

The period of time for expending the five million dollars (\$5,000,000) appropriated from the computer systems enhancement fund in Subsection 5 of Section 7 of Chapter 11 of Laws 2016 as amended in Subsection 7 of Section 7 of Chapter 135 of Laws 2017 to replace the oil and natural gas administration database is extended through fiscal year 2019.

(7) TAXATION AND REVENUE DEPARTMENT

The period of time for expending the two million dollars (\$2,000,000) appropriated from the computer systems enhancement fund in Subsection 6 of Section 7 of Chapter 11 of Laws 2016 to modernize the property tax business system is extended through fiscal year 2019. The appropriation is from the delinquent property tax fund.

(8) DEPARTMENT OF FINANCE  
AND ADMINISTRATION                      1,250.0                      1,250.0

To implement an enterprise budgeting system. The appropriation is contingent on the legislative finance committee and the department of finance and administration entering



into a joint powers agreement for the purpose of cooperating and cost-sharing in the joint design, development, acquisition and implementation of the budget system.

(9) GENERAL SERVICES DEPARTMENT

The period of time for expending the two hundred fifty thousand dollars (\$250,000) of the one million five hundred thousand dollars (\$1,500,000) appropriated from the workers' compensation retention fund, the public property reserve fund and the public liability fund in Subsection 7 of Section 7 of Chapter 63 of Laws 2014 as extended in Subsection 9 of Section 7 of Chapter 11 of Laws 2016 as extended in Subsection 3 of Section 7 of Chapter 135 of Laws 2017 to develop a plan to implement the risk management information system is granted a final extension through fiscal year 2019.

(10) DEPARTMENT OF INFORMATION

|            |         |         |
|------------|---------|---------|
| TECHNOLOGY | 1,000.0 | 1,000.0 |
|------------|---------|---------|

For initiation and planning of an integrated digital government solution. The appropriation is contingent on the department of information technology providing the department of finance and administration and legislative finance committee quarterly project status reports, including a detailed project plan.

(11) DEPARTMENT OF INFORMATION

|            |         |         |
|------------|---------|---------|
| TECHNOLOGY | 1,000.0 | 1,000.0 |
|------------|---------|---------|

To perform a statewide cybersecurity assessment and identify and implement security-related tools for compliance monitoring and cybersecurity risk management.

(12) PUBLIC EMPLOYEES RETIREMENT

ASSOCIATION

The period of time for expending the four million two hundred thousand dollars (\$4,200,000) appropriated from the computer systems enhancement fund in Subsection 11 of Section 7 of Chapter 11 of Laws 2016 to upgrade the retirement information online system is extended through fiscal year 2019. The appropriation is from interest on investments.

(13) PUBLIC EMPLOYEES RETIREMENT

|             |         |         |
|-------------|---------|---------|
| ASSOCIATION | 3,000.0 | 3,000.0 |
|-------------|---------|---------|

To purchase hardware and software to upgrade the retirement information online system infrastructure. The other state funds appropriation is from interest on investments. The appropriation is contingent on the public employees retirement

association conducting a cost-benefit analysis of available alternative systems, and providing the department of finance and administration and the legislative finance committee a detailed report of the analysis.

(14) SECRETARY OF STATE                      985.0                      985.0

To purchase and implement a campaign finance information system.

(15) REGULATION AND LICENSING

DEPARTMENT                      267.4                      267.4

To upgrade the permitting and licensing payment portal to meet payment card industry compliance standards.

(16) REGULATION AND LICENSING

DEPARTMENT                      967.0                      967.0

To replace the permitting and inspection software. The other state funds appropriation includes three hundred fifty thousand dollars (\$350,000) from the housing and urban development federal manufactured housing fund.

(17) CULTURAL AFFAIRS DEPARTMENT                      350.0                      350.0

To purchase and implement a commercial off-the-shelf ticketing and admissions system.

(18) COMMISSIONER OF PUBLIC LANDS

The period of time for expending the five million dollars (\$5,000,000) from the state lands maintenance fund to replace the oil and natural gas administration and revenue database appropriated to the taxation and revenue department in Subsection 5 of Section 7 of Chapter 11 of Laws 2016 and re-appropriated to the commissioner of public lands in Subsection 7 of Section 7 of Chapter 135 of Laws 2017 is extended through fiscal year 2019 to replace royalty, oil and gas management and accounting functionality of the oil and natural gas administration and revenue database.

(19) COMMISSIONER OF PUBLIC LANDS                      5,000.0  
5,000.0

To continue the replacement of the oil and natural gas administration revenue database royalty administration functionality. The other state funds appropriation is from the state lands maintenance fund.

(20) HUMAN SERVICES DEPARTMENT

The period of time for expending the two million eight hundred thousand dollars (\$2,800,000) appropriated from the computer systems enhancement fund in Subsection 15 of Section 7 of Chapter 11 of Laws 2016 to plan and implement the replacement of the medicaid management information system is extended through fiscal year 2019.

|      |                           |         |          |
|------|---------------------------|---------|----------|
| (21) | HUMAN SERVICES DEPARTMENT | 6,801.9 | 60,855.1 |
|      | 67,657.0                  |         |          |

To continue the implementation of the medicaid management information system replacement project.

|      |                      |      |       |       |
|------|----------------------|------|-------|-------|
| (22) | DEPARTMENT OF HEALTH | 20.0 | 180.0 | 200.0 |
|------|----------------------|------|-------|-------|

To upgrade the children's medical services medicaid provider enrollment system to integrate with the human services department's medicaid management information system replacement project.

|      |                      |      |       |       |
|------|----------------------|------|-------|-------|
| (23) | DEPARTMENT OF HEALTH | 35.0 | 315.0 | 350.0 |
|------|----------------------|------|-------|-------|

To purchase hardware and software to implement a facilities licensing system.

|      |                      |      |       |       |
|------|----------------------|------|-------|-------|
| (24) | DEPARTMENT OF HEALTH | 25.0 | 225.0 | 250.0 |
|------|----------------------|------|-------|-------|

To integrate the families first medicaid eligibility system with the human services department's medicaid management information system replacement project.

|      |                      |      |       |       |
|------|----------------------|------|-------|-------|
| (25) | DEPARTMENT OF HEALTH | 20.0 | 180.0 | 200.0 |
|------|----------------------|------|-------|-------|

To purchase and implement a commercial off-the-shelf incident management system.

|      |                      |         |         |
|------|----------------------|---------|---------|
| (26) | DEPARTMENT OF HEALTH | 2,750.0 | 2,750.0 |
|------|----------------------|---------|---------|

To purchase and implement an integrated document management system and upgrade the vital records database.

|      |                     |       |       |         |
|------|---------------------|-------|-------|---------|
| (27) | CHILDREN, YOUTH AND |       |       |         |
|      | FAMILIES DEPARTMENT | 500.0 | 500.0 | 1,000.0 |

To plan a modernization of the comprehensive child welfare information system.

|      |                        |  |  |  |
|------|------------------------|--|--|--|
| (28) | CORRECTIONS DEPARTMENT |  |  |  |
|------|------------------------|--|--|--|

The period of time for expending the seven million three hundred thousand dollars (\$7,300,000) including two million four hundred thousand dollars (\$2,400,000) appropriated from the computer systems enhancement fund, one million six hundred

thousand dollars (\$1,600,000) from the community corrections grant fund and three million three hundred thousand dollars (\$3,300,000) from the intensive supervision fund in Subsection 19 of Section 7 of Chapter 11 of Laws 2016 to implement a commercial off-the-shelf offender management information system is extended through fiscal year 2019.

|                             |         |         |
|-----------------------------|---------|---------|
| (29) CORRECTIONS DEPARTMENT | 2,290.0 | 2,290.0 |
|-----------------------------|---------|---------|

To continue the implementation of the commercial off-the-shelf offender management system.

(30) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the one hundred fifty thousand dollars (\$150,000) appropriated from the computer systems enhancement fund in Subsection 20 of Section 7 of Chapter 11 of Laws 2016 to enhance the consolidated offender query database for the criminal history clearinghouse is extended through fiscal year 2019.

(31) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the two hundred fifty thousand dollars (\$250,000) appropriated from the computer systems enhancement fund in Subsection 24 of Section 7 of Chapter 101 of Laws 2015 as extended in Subsection 13 of Section 7 of Chapter 135 of Laws 2017 for the planning phase to implement a records management system is extended through fiscal year 2019.

|                                  |         |
|----------------------------------|---------|
| (32) DEPARTMENT OF PUBLIC SAFETY | 1,500.0 |
| 1,500.0                          |         |

To implement a commercial off-the-shelf records management system.

|                                      |          |       |
|--------------------------------------|----------|-------|
| TOTAL DATA PROCESSING APPROPRIATIONS | 29,903.3 | 900.0 |
| 61,355.1    92,158.4                 |          |       |

## **Chapter 73 Section 8 Laws 2018**

### Section 8. COMPENSATION APPROPRIATIONS.--

A. Seventy-four million six hundred sixty-eight thousand seven hundred two dollars (\$74,668,702) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2019 to provide salary increases to employees in budgeted positions who have completed their probationary period subject to satisfactory job performance. Police officers of the department of public safety shall be exempt from the requirement to complete their probationary period. The salary increases shall be effective the first full pay period after July 1, 2018 and distributed as follows:

(1) two hundred forty thousand dollars (\$240,000) to provide permanent legislative employees, including permanent employees of the legislative council service, legislative finance committee, legislative education study committee, legislative building services, the house and senate, house and senate chief clerks' offices and house and senate leadership with an average salary increase of two percent;

(2) three million nine hundred fifty-two thousand dollars (\$3,952,000) to provide all judicial permanent employees, all district attorney permanent employees, all public defender department permanent employees, judicial child support hearing officers and judicial special commissioners with an average salary increase of two percent;

(3) twelve million six hundred thousand dollars (\$12,600,000) to provide incumbents in agencies governed by the State Personnel Act, the New Mexico state police career pay system, attorney general employees, workers' compensation judges and executive exempt employees with an average salary increase of two percent;

(4) thirty-one million two hundred seventy-six thousand one hundred sixty-seven dollars (\$31,276,167) to the state equalization guarantee distribution to provide an average two and one-half percent salary increase to all licensed teachers whose primary duty is classroom instruction. This amount does not include and is in addition to salary increases due to licensure advancement pursuant to the School Personnel Act. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide an average two and one-half percent salary increase for all licensed teachers whose primary duty is classroom instruction;

(5) fourteen million one hundred forty-three thousand one hundred eighty-four dollars (\$14,143,184) to the state equalization guarantee distribution to provide an average two percent salary increase for all instructional staff and other licensed and unlicensed staff who are not licensed teachers with a primary duty of classroom instruction. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide an average two percent salary increase for all instructional staff and other licensed and unlicensed staff who are not licensed teachers with a primary duty of classroom instruction. The secretary of public education shall not approve the operating budget of a school district or charter school that does not prioritize salary increases for instructional staff or disproportionately allocates salary increases for central office administrators provided however school districts and charter schools are encouraged to allocate average salary increases the same as classroom teachers;

(6) one million one hundred thirty-six thousand three hundred thirteen dollars (\$1,136,313) to the [school district] transportation distribution to provide an average two percent salary increase to all transportation employees. The secretary

of public education shall not approve the operating budget [~~of a school district~~] that does not provide an average two percent salary increase for all transportation employees;  
*LINE-ITEM VETO*

(7) twenty-seven thousand thirty-eight dollars (\$27,038) to the [~~state-chartered charter school~~] transportation distribution to provide an average two percent salary increase to all transportation employees. The secretary of public education shall not approve the operating budget [~~of a state-chartered charter school~~] that does not provide an average two percent salary increase for all transportation employees; and *LINE-ITEM VETO*

(8) eleven million two hundred ninety-four thousand dollars (\$11,294,000) to the higher education department to provide faculty and staff of two-year and four-year public post-secondary educational institutions, New Mexico military institute, New Mexico school for the blind and visually impaired and New Mexico school for the deaf with an average two percent salary increase.

B. Fourteen million four hundred eighty-five thousand eight hundred dollars (\$14,485,800) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2019 to provide targeted salary increases, in addition to increases specified in Subsection A of this Section, to employees in budgeted positions who have completed their probationary period subject to satisfactory job performance. Police officers of the department of public safety shall be exempt from the requirement to complete their probationary period. The salary increases shall be effective the first full pay period after July 1, 2018 and distributed as follows:

(1) three million five hundred nineteen thousand one hundred dollars (\$3,519,100) to provide public correction and probation officers [~~an average~~] six and one-half percent salary increase; *LINE-ITEM VETO*

(2) two million eight hundred fifteen thousand three hundred dollars (\$2,815,300) to provide New Mexico state police career pay system employees an average six and one-half percent salary increase;

(3) two million one hundred four thousand three hundred dollars (\$2,104,300) to provide judicial permanent employees, excluding judges, an average two and one-half percent salary increase;

(4) one million one hundred twelve thousand nine hundred dollars (\$1,112,900) to provide judges an average four and one-half percent salary increase;

(5) forty-nine thousand seven hundred dollars (\$49,700) to provide elected district attorneys an average two and one-half percent salary increase;

(6) fifty thousand dollars (\$50,000) to provide salary increases for district attorneys as follows:

(a) district attorneys who serve in a district that does not include a class A county shall receive an annual salary of one hundred twenty thousand nine hundred ninety-nine dollars (\$120,999); and

(b) district attorneys who serve in a district that includes a class A county shall receive an annual salary of one hundred twenty thousand nine hundred ninety-nine dollars (\$120,999);

(7) two million three hundred sixty-seven thousand six hundred dollars (\$2,367,600) to provide district attorney employees an average four and one-half percent salary increase;

(8) one million one hundred eighty-eight thousand nine hundred dollars (\$1,188,900) to provide public defender department employees an average four and one-half percent salary increase;

(9) one hundred twenty-five thousand dollars (\$125,000) to provide all criminal division staff in the attorney general's office an average two and one-half percent salary increase;

(10) four hundred thirty-two thousand one hundred dollars (\$432,100) to provide employees of the protective services program of the children, youth and families department classified as investigator, permanency, placement, transition and social and human service workers an average two and one-half percent salary increase; and

(11) seven hundred twenty thousand nine hundred dollars (\$720,900) to provide department of health employees classified as nurses, nurse technicians, mid-level providers, home health aids, social workers, counselors and therapists an average two and one-half percent salary increase.

~~[C. Contingent on enactment of Senate Bill 176 or similar legislation of the second session of the fifty-third legislature authorizing new salary amounts for statewide elected officials, sixty-seven thousand four hundred dollars (\$67,400) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2019 to provide statewide elected officials a ten percent salary increase. The salary increases shall be effective the first full pay period after July 1, 2018.]~~ *LINE-ITEM VETO*

D. The department of finance and administration shall distribute a sufficient amount to each agency to provide the appropriate increase for those employees whose salaries are received as a result of the general fund appropriations in

the General Appropriation Act of 2018. Any unexpended or unencumbered balances remaining at the end of fiscal year 2019 shall revert to the general fund.

E. For those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 2018, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the salary increases equivalent to those provided for in this section. Such amounts are appropriated for expenditure in fiscal year 2019. Any unexpended or unencumbered balances remaining at the end of fiscal year 2019 shall revert to the appropriate fund.

## **Chapter 73 Section 9 Laws 2018**

Section 9. ADDITIONAL FISCAL YEAR 2018 BUDGET ADJUSTMENT AUTHORITY.--During fiscal year 2018, 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 2017:

A. the second judicial district court may request budget increases up to one hundred fifty thousand dollars (\$150,000) from internal service funds/interagency transfers and other state funds from the city of Albuquerque for the assisted outreach program;

B. the third judicial district court may request budget increases up to thirty-five thousand dollars (\$35,000) from other state funds from mediation fees for operating expenses;

C. the fourth judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds from mediation fees for operating expenses and may request budget increases up to fifteen thousand dollars (\$15,000) from other state funds from copy fees for operating expenses;

D. the fifth judicial district court may request budget increases up to twenty-two thousand dollars (\$22,000) from other state funds for the drug court programs in Lea county and may request budget increases up to sixty thousand dollars (\$60,000) from other state funds from duplication fees for operating expenses;

E. the ninth judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds from drug court fees for operating expenses and may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds from domestic filing fees for operating expenses;

F. the eleventh judicial district court may request budget increases up to thirty thousand dollars (\$30,000) from fund balances for postage;



G. the thirteenth judicial district court may request budget increases up to sixty thousand dollars (\$60,000) from other state funds for family support services;

H. the second judicial district attorney 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 grants and local governments for case prosecution and related support services;

I. the eleventh judicial district attorney division II may request budget increases up to fifty thousand dollars (\$50,000) from internal service funds/interagency transfers and other state funds from any political subdivision of the state or from Native American tribes for the prosecution of crimes within McKinley county and may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds from forfeiture revenues pursuant to Section 31-27-1 NMSA 1978 for prosecution of cases;

J. the public defender department may request budget increases up to four hundred thousand dollars (\$400,000) from internal service funds/interagency transfers from the public defender automation fund and from Bernalillo county for operating expenses;

K. the administrative hearings office may request budget increases up to thirty thousand dollars (\$30,000) from other state funds received from other state agencies for administrative hearings;

L. the New Mexico sentencing commission may request budget increases from fund balance for operating expenses and may request budget increases up to eighty thousand dollars (\$80,000) from a grant received from the Santa Fe community foundation payable to the university of New Mexico for expenses incurred while performing research for the Santa Fe law enforcement assisted diversion program;

M. the secretary of state may request budget increases up to twenty thousand dollars (\$20,000) from the credit card convenience fund for operating expenses;

N. the human resource management program of the personnel board may request budget increases up to two hundred thousand dollars (\$200,000) from internal service funds/interagency transfers for costs associated with implementing a centralized human resource program;

O. 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 from the public school facilities authority for costs associated with permitting and inspecting projects funded by the Public School Capital Outlay Act;

P. the patient's compensation fund program of the office of superintendent of insurance may request budget increases from other state funds for patient compensation settlements and court-ordered payments;

Q. the board of nursing may request budget increases up to one hundred fifty thousand dollars (\$150,000) from other state funds from licensing and renewal fees for operating expenses;

R. the museum and historic sites program of the department of cultural affairs may request budget increases up to seven hundred fifty thousand dollars (\$750,000) from other state funds from ticket sales or rentals for museum operating expenses;

S. the oil conservation program of the energy, minerals and natural resources department may request budget increases from internal service funds/interagency transfers, other state funds and fund balances from the Carlsbad brine well remediation fund for the continued remediation of the Carlsbad brine well;

T. the commissioner of public lands may request budget increases up to five million dollars (\$5,000,000) from the state trust lands restoration and remediation fund to address surface damage, remediation of hazardous waste sites and watershed restoration on state trust lands;

U. the commission for the blind may request budget increases from other state funds for the employment of blind or visually impaired persons pursuant to the federal Randolph-Sheppard Act, the federal Javits-Wagner-O'Day Act or the federal ability one program and may request budget increases from other state funds and federal funds to contract with blind or visually impaired vendors to operate food services at the federal law enforcement training center;

V. the independent living program of the division of vocational rehabilitation may request category transfers up to fifty-five thousand dollars (\$55,000) to the other financing uses category;

W. the office of guardianship program of the developmental disabilities planning council may request budget increases from fund balances for oversight of guardianship contractors;

X. the developmental disabilities support program of the department of health may request transfers between the other category and other financing uses category for the family infant toddler program and may request category transfers from the personal services and employee benefits category, contractual services category and other category to the other financing uses category for developmental disabilities waiver services and the epidemiology and response program may request budget increases from internal service funds/interagency transfers and other state funds from payments for prevention services, conducting health surveys and analyzing data;

Y. the water protection program of the department of environment may request budget increases up to three hundred fifty thousand dollars (\$350,000) from other state funds and internal service funds/interagency transfers for providing technical or community services;

Z. the corrections industries program of the corrections department may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds from sales, fund balances, inmate canteen purchases and telephone services;

AA. the New Mexico crime victims reparation commission may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds from fees for care and support;

BB. the department of transportation may request budget increases up to thirty-five million dollars (\$35,000,000) from other state funds and fund balances to meet federal matching requirements, for debt service and related costs, intergovernmental agreements, lawsuits and construction- and maintenance-related costs; and

CC. the policy development and institutional financial oversight program of the higher education department may request budget increases up to fifty thousand dollars (\$50,000) from internal service funds/interagency transfers for higher education tribal liaison collaboration activities.

## **Chapter 73 Section 10 Laws 2018**

### **Section 10. CERTAIN FISCAL YEAR 2019 BUDGET ADJUSTMENTS AUTHORIZED.--**

A. As used in this section and Section 9 of the General Appropriation Act of 2018:

(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 2019.

C. In addition to the specific category transfers authorized in Subsection E of this section and unless a conflicting category transfer is authorized in Subsection E of this section, all agencies, including legislative agencies, may request category transfers among personal services and employee benefits, contractual services and other.

D. Unless a conflicting budget increase is authorized in Subsection E of this section, a program with internal service funds/interagency transfers appropriations or other state funds appropriations that collects money in excess of those appropriated may request budget increases in an amount not to exceed five percent of its internal service funds/interagency transfers or other state funds appropriation contained in Section 4 of the General Appropriation Act of 2018. 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 2018, the following agencies may request specified budget adjustments:

(1) the New Mexico compilation commission may request budget increases from internal service funds/interagency transfers and other state funds for publishing expenses;

(2) the judicial standards commission may request budget increases up to thirty thousand dollars (\$30,000) from other state funds from investigation and trial cost reimbursements for operating expenses;

(3) second judicial district court may request budget increases up to two hundred thousand dollars (\$200,000) from internal service funds/interagency transfers and other state funds from fees for the veterans treatment court program, may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds from Bernalillo county for operating expenses, may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from drug court fees for operating expenses, may request budget increases up to twenty thousand dollars (\$20,000) from internal services funds/interagency transfers and other state funds from copies, tapes and parking reimbursements for operating expenses and may request budget increases up to one hundred fifty thousand dollars (\$150,000) from internal service funds/interagency transfers and other state funds from the city of Albuquerque for the assisted outreach program;

(4) the third judicial district court may request budget increases up to thirty-five thousand dollars (\$35,000) from other state funds from mediation fees for operating expenses;

(5) the fourth judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds from mediation fees for operating expenses and may request budget increases up to fifteen thousand dollars (\$15,000) from other state funds from copy fees for operating expenses;

(6) the eleventh judicial district court may request budget increases up to fifty thousand dollars (\$50,000) from drug court fund balances for treatment services, may request budget increases up to twenty-five thousand dollars (\$25,000) from internal service funds/interagency transfers and other state funds from drug court fees for treatment services, may request budget increases up to ten thousand dollars (\$10,000) from internal service funds/interagency transfers and other state funds from copy fees for operating expenses, may request budget increases up to twenty-five thousand dollars (\$25,000) from internal service funds/interagency transfers, may request budget increases up to seventy-five thousand dollars (\$75,000) from mediation fund balance for mediation operating expenses and other state funds from mediation fees for operating expenses and may request budget increases up to thirty thousand dollars (\$30,000) from fund balances for postage;

(7) the twelfth judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds for the alternative dispute resolution program;

(8) the thirteenth judicial district court may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds from fees for pretrial services, may request budget increases up to ten thousand dollars (\$10,000) from other state funds from tape and copy fees for operating expenses and may request up to one hundred thirty-five thousand dollars (\$135,000) from internal service funds/interagency transfers and other state funds from fees for the foreclosure settlement project;

(9) the second judicial district attorney 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 grants and local governments for case prosecution and related support services;

(10) 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 from any political subdivision of the state or from Native American tribes to assist in the prosecution of crimes within Otero and Lincoln counties;

(11) the thirteenth judicial district attorney may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds from any political subdivision of the state or from Native American tribes to assist in case prosecution;

(12) the attorney general may request budget increases up to one million dollars (\$1,000,000) from other state funds from the consumer settlement fund for operating expenses;

(13) the office of the state auditor may request budget increases up to three hundred thousand dollars (\$300,000) from other state funds from audit fees to assist local public bodies with meeting financial reporting requirements or to assist in special investigations;

(14) the state investment council may request budget increases from other state funds for investment-related management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(15) the property tax program of the taxation and revenue department may request budget increases up to seven hundred thousand dollars (\$700,000) from the delinquent property tax fund for costs associated with litigation, legal and other services and sponsoring training, education, or other materials to New Mexico county assessors and treasurers as they relate to the Property Tax Code and property taxation and the motor vehicle program may request budget increases up to four hundred thousand dollars (\$400,000) from the enhanced driver's license fund for federal REAL ID Act of 2005 expenditures;

(16) the administrative hearings office may request budget increases up to thirty thousand dollars (\$30,000) from other state funds received from other state agencies for administrative hearings;

(17) the benefits and risk and program support programs of the public school insurance authority may request budget increases from internal service funds/interagency transfers, other state funds and fund balances for claims;

(18) the healthcare benefits administration program of the retiree health care authority may request budget increases from other state funds for claims;

(19) the procurement services program of the general services department may request category transfers up to seventy thousand nine hundred dollars (\$70,900) to and from the other financing uses category and may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds to automate state procurement processes and contract templates and the facilities management program may request category transfers up to two hundred thousand dollars (\$200,000) to and from the other financing uses category for facility repairs and maintenance-related expenses;

(20) the educational retirement board may request budget increases from other state funds for investment-related asset management fees and to

meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(21) the New Mexico sentencing commission may request budget increases from fund balance for operating expenses;

(22) 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 increases up to five million dollars (\$5,000,000) from the statewide human resources, accounting and management reporting system equipment replacement fund for equipment replacement, may request budget increases up to ten percent of internal service funds/interagency transfers and other state funds appropriated in Section 4 of the General Appropriation Act of 2018 to support existing or new services and may request budget increases from fund balances up to the amount of depreciation expense as reported in the notes to the financial statements of the agency's independent audit of the fiscal year ended June 30, 2018 to acquire and replace capital equipment and associated software used to provide enterprise services;

(23) the public employees retirement association may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(24) the secretary of state may request budget increases up to twenty thousand (\$20,000) from other state funds from the credit card convenience fund for operating expenses;

(25) the human resource management program of the personnel board may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers received from other state agencies to implement a centralized human resource program;

(26) the marketing and promotions program of the tourism department may request budget increases up to one million dollars (\$1,000,000) from other state funds to grow advertising efforts by leveraging partnership dollars in the tourism enterprise fund;

(27) 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 permitting and inspecting projects funded by the Public School Capital Outlay Act;

(28) the patient's compensation fund program of the office of superintendent of insurance may request budget increases from other state funds for patient compensation settlements and court-ordered payments;

(29) the New Mexico medical board may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds from licensing and renewal fees for the administrative hearing and litigation process;

(30) the department of cultural affairs may request program transfers, may request budget increases from the cultural affairs department enterprise fund and the preservation program may request budget increases from other state funds for archaeological services or historic preservation services;

(31) the department of game and fish may request budget increases up to five hundred thousand dollars (\$500,000) from the game protection fund for emergencies;

(32) the energy, minerals and natural resources department may request budget increases from internal service funds/interagency transfers from the department of environment, department of game and fish, homeland security and emergency management department and office of state engineer from federal funds to allow programs to maximize the use of federal grants, the state parks program may request budget increases from internal services funds/interagency transfers from the department of transportation, New Mexico youth conservation corps, tourism department, economic development department and department of game and fish from funds related to projects approved by the Rio Grande trail commission, the oil and gas conservation program may request budget increases from internal service funds/interagency transfers from the department of environment for the water quality program and may request budget increases from internal service funds/interagency transfers, other state funds and fund balances from the Carlsbad brine well remediation fund for the continued remediation of the Carlsbad brine well, the healthy forests program may request budget increases from internal service funds/interagency transfers from the New Mexico youth conservation corps fund for projects approved by the New Mexico youth conservation corps commission and may request budget increases up to fifty thousand dollars (\$50,000) from other state funds for the inmate work camp program and the energy conservation and management program may request budget increases from internal service funds/interagency transfers and other state funds for project implementation;

(33) the commissioner of public lands may request budget increases up to five million dollars (\$5,000,000) from the state trust lands restoration and remediation fund to address surface damage, remediation of hazardous waste sites and watershed restoration on state trust lands;

(34) the interstate stream compact compliance and water development program of the office of state engineer may request budget increases up



to two hundred fifty thousand dollars (\$250,000) from other state funds from the Ute construction fund for operational and maintenance requirements at Ute reservoir, may request budget increases up to three hundred fifty thousand dollars (\$350,000) from the irrigation works construction fund for operational and maintenance costs associated with the Pecos river settlement agreement, may request budget increases up to five hundred thousand dollars (\$500,000) from the irrigation works construction fund for Elephant Butte channel and other Rio Grande river maintenance and restoration work and may request budget increases up to three million three hundred twelve thousand dollars (\$3,312,000) from the New Mexico unit fund to meet water supply demands in the southwest water planning region of New Mexico including costs associated with planning, environmental compliance activities, environmental mitigation and restoration and the litigation and adjudication program may request budget increases up to two million five hundred thousand dollars (\$2,500,000) from internal service funds/interagency transfers from the improvement of the Rio Grande income fund for operations in the event water project fund revenues are insufficient to meet operating budget needs notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978;

(35) the commission for the blind may request budget increases from other state funds for the employment of blind or visually impaired persons pursuant to the federal Randolph-Sheppard Act, the federal Javits-Wagner-O'Day Act or the federal ability one program;

(36) the aging and long-term services department may request program transfers up to five hundred thousand dollars (\$500,000) between programs for budget shortfalls;

(37) the human services department may request program transfers between the medical assistance program and the medicaid behavioral health program;

(38) the workforce solutions department may request program transfers between programs up to one million dollars (\$1,000,000);

(39) the rehabilitation services program of the division of vocational rehabilitation may request budget increases up to four hundred fifty thousand dollars (\$450,000) from other state funds for rehabilitation services for persons with disabilities;

(40) the miners' hospital of New Mexico may request budget increases from other state funds from fees from patient revenues for operating expenses;

(41) the department of health may request program transfers for budget shortfalls, the health certification, licensing and oversight program may request budget increases from other state funds from health facility license and certification fees pursuant to Subsection G of Section 24-1-5 NMSA 1978, the developmental disabilities support program may request budget increases from other state funds from private

insurer payments, may request category transfers between the other category and other financing uses category for the family, infant, toddler program and may request category transfers from the personal services and employee benefits category, contractual services category and other category to the other financing uses category for developmental disabilities waiver services, the epidemiology and response program may request budget increases from internal service funds/interagency transfers and other state funds from payments for prevention services, conducting health surveys and analyzing data, the laboratory services program may request budget increases from internal service funds/interagency transfers and other state funds for operating expenses and the medical cannabis program may request budget increases from other state funds from medical cannabis revenue for operating expenses;

(42) the water protection program of the department of environment may request budget increases up to two hundred seventy thousand dollars (\$270,000) from other state funds and internal service funds/interagency transfers for providing services related to the drinking water state revolving loan fund, local government planning fund, water project fund, colonias infrastructure project fund programs and tribal infrastructure project fund programs and the resource protection program may request budget increases from other state funds and internal service funds/interagency transfers from the hazardous waste emergency fund for emergencies and may request budget increases from other state funds and internal service funds/interagency transfers from the corrective action fund for claims;

(43) the health care coordination division of the department of veterans services may request budget increases from other state funds from patient revenues for veterans' home operations;

(44) the children, youth and families department may request program transfers between programs up to two million dollars (\$2,000,000), the juvenile justice facilities program may request budget increases up to one million six hundred thousand dollars (\$1,600,000) 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 for the juvenile continuum grant fund, may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds for the juvenile community corrections grant fund and the protective services program and early childhood services program may request budget increases from unexpended general fund balances resulting from nonreverting language for operating expenses;

(45) the department of military affairs may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from leases, land royalties, miscellaneous revenue and gifts or grants for support of national guard facility operations and maintenance and repair of the New Mexico youth challenge academy;

(46) the corrections department may request program transfers up to one million five hundred thousand dollars (\$1,500,000) between programs for budget

shortfalls, the community offender management program may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds from program fees, probation and parole fees, cash balances and the community corrections grant fund for operating expenses, may request budget increases up to five hundred thousand dollars (\$500,000) from fund balances for operating expenses, program support may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds from social security administration incentive payments and additional payments from international cadet training classes, the inmate management and control program may request budget increases up to two million dollars (\$2,000,000) from internal service funds/interagency transfers and other state funds from land grant permanent fund and land income fund and inmate work crew program income and the corrections industries program may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds from sales, fund balances, inmate canteen purchases and telephone services for operating expenses;

(47) the department of public safety 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 public safety special projects and activities with other state agencies, local governments and other law enforcement entities;

(48) the department of transportation may request program transfers between the project design and construction program, the highway operations program and modal program for costs related to engineering, construction and maintenance services, may request program transfers into the personal services and employee benefits category for prospective salary increases and the employer's share of applicable taxes and retirement benefits, may request budget increases up to forty five million dollars (\$45,000,000) 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 the support program may request budget increases from other state funds from the motor vehicle suspense fund contingent on the enactment of Senate Bill 226 or similar legislation of the second session of the fifty-third legislature;

(49) the public education department may request budget increases up to twenty thousand dollars (\$20,000) from the school transportation training fund for public school transportation workshops and training; and

(50) the policy development and institutional financial oversight program of the higher education department may request budget increases up to fifty thousand dollars (\$50,000) from internal service funds/interagency transfers for higher education tribal liaison collaboration activities.

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 73 Section 11 Laws 2018**

### Section 11. FUND TRANSFERS.--

A. Notwithstanding any restriction on the use of the money in the funds, no later than June 29, 2018, all amounts, including all accumulated interest within each fund or account, are transferred to the general fund from the following funds or accounts within or administered by the New Mexico finance authority for the purpose of meeting appropriations from the general fund:

- (1) the local government transportation fund;
- (2) the water and wastewater project grant fund;
- (3) the local transportation infrastructure fund;
- (4) the emergency drought relief fund; and
- (5) the biomass dairy fund.

## **Chapter 73 Section 12 Laws 2018**

### Section 12. TRANSFER AUTHORITY.--

A. If revenue and transfers to the general fund at the end of fiscal year 2019 are not sufficient to meet appropriations, the governor, with the state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the operating reserve provided that the total transferred pursuant to this section shall not exceed sixty-five million dollars (\$65,000,000).

## **Chapter 73 Section 13 Laws 2018**

Section 13. 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.

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HAFC/House Bills 2 & 3, aa, partial veto

Approved March 7, 2018

# **LAWS 2018, CHAPTER 74**

## **AN ACT**

RELATING TO PUBLIC SAFETY; REQUIRING THE HUMAN SERVICES DEPARTMENT TO PROVIDE, IN CONNECTION WITH MEDICAID ELIGIBILITY DETERMINATIONS, TECHNICAL SUPPORT AND TRAINING AND CERTIFICATION FOR COUNTIES UPON REQUEST; REQUIRING CORRECTIONAL FACILITIES TO TAKE CERTAIN ACTIONS DESIGNED TO REDUCE RECIDIVISM; PROVIDING FOR LAW ENFORCEMENT OFFICER RETENTION PAYMENTS; REVISING MULTIPLE OFFENSES TO PENALTY ASSESSMENT MISDEMEANORS; INCREASING THE PENALTY FOR A FELON IN POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE; ADJUSTING FINES FOR MOTOR VEHICLE OFFENSES; REVISING REQUIREMENTS FOR REINSTATING A DRIVER'S LICENSE; REPEALING SECTIONS OF LAW; RECONCILING CONFLICTING SECTIONS OF LAW BY REPEALING LAWS 1989, CHAPTER 318, SECTION 31.

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

### **Chapter 74 Section 1 Laws 2018**

SECTION 1. Section 27-2-12.22 NMSA 1978 (being Laws 2015, Chapter 127, Section 2) is amended to read:

"27-2-12.22. INCARCERATED INDIVIDUALS--MEDICAID ELIGIBILITY-- COUNTY JAIL TECHNICAL ASSISTANCE--PRESUMPTIVE ELIGIBILITY DETERMINER TRAINING AND CERTIFICATION.--

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:

(1) inform the human services department when an eligible individual is incarcerated;

(2) facilitate, with assistance from the department, eligibility determinations for medicaid during the incarcerated individuals' incarceration or upon release;

(3) notify the department upon an eligible individual's release; and

(4) facilitate the department's or any department contractor's provision of care coordination pursuant to the provisions of Section 2 of this 2018 act.

G. Upon the written request of a county, the department shall provide a behavioral health screening tool to facilitate screenings performed in accordance with the provisions of Subsection A of Section 2 of this 2018 act, technical assistance and training and certification of county jail presumptive eligibility determiners to a county jail.

H. The secretary of human services shall adopt and promulgate rules consistent with this section.

I. As used in this section:

(1) "care coordination" means an assessment for health risks and the creation of a plan of care to address an individual's comprehensive health needs, including access to physical health care and mental health services; substance use disorder treatment; and transportation services;

(2) "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;

(3) "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;

(4) "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

(5) "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."

## **Chapter 74 Section 2 Laws 2018**

### **SECTION 2. CORRECTIONAL FACILITIES--CARE COORDINATION.--**

A. A correctional facility shall ensure that each inmate of that correctional facility is screened for mental illness and for habitual substance abuse within thirty days of incarceration in that facility.

B. A correctional facility shall offer a qualifying inmate the opportunity to enroll in medicaid in accordance with the provisions of Section 27-2-12.22 NMSA 1978.

C. To the extent allowed by federal law or waiver agreement, care coordinators employed by medicaid managed care organizations shall link inmates who are enrolled in a medicaid managed care program to care coordination prior to the inmates' release.

D. The human services department shall provide information to correctional facilities seeking medicaid care coordination for qualifying inmates.

E. As used in this section:

(1) "care coordination" means an assessment for health risks and the creation of a plan of care to address an individual's comprehensive health needs, including access to physical health care and mental health services; substance use disorder treatment; and transportation services;

(2) "correctional facility" means a:

(a) state correctional facility;

(b) privately operated correctional facility;

(c) county jail;

(d) privately operated jail;

(e) 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) 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) "qualifying inmate" means an inmate who has been identified as currently having a mental illness or a substance use disorder, either through the screening provided pursuant to the provisions of Subsection A of this section or as evidenced in the inmate's medical record.

## **Chapter 74 Section 3 Laws 2018**

SECTION 3. Section 29-13-7 NMSA 1978 (being Laws 1983, Chapter 289, Section 7, as amended) is amended to read:

"29-13-7. EXPENDITURE LIMITATION--CONTROL.--



A. Except as provided for the academy in Subsection B of this section, amounts distributed from the fund shall be expended only for the following:

(1) the repair and purchase of law enforcement apparatus and equipment, including the financing and refinancing thereof, that meet minimum nationally recognized standards;

(2) the purchase of law enforcement equipment, including protective vests, for police dogs;

(3) expenses associated with advanced law enforcement planning and training;

(4) maintaining the balance of the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund at a minimum amount of three hundred fifty thousand dollars (\$350,000);

(5) complying with match or contribution requirements for the receipt of federal funds relating to criminal justice programs;

(6) no more than fifty percent of the replacement salaries of municipal and county law enforcement personnel of municipalities or counties rated as class 1 in Paragraph (1) of Subsection C of Section 29-13-4 NMSA 1978 participating in basic law enforcement training; and

(7) contingent upon the availability of funding and until June 30, 2021, a law enforcement officer retention payment in the amount of seven thousand five hundred dollars (\$7,500); provided that:

(a) the distribution is requested by a municipality or county law enforcement agency that on January 1, 2018 had a staffing vacancy rate of at least ten percent to retain a law enforcement officer who is certified in accordance with the Law Enforcement Training Act and has at least twenty years of actual service credit earned under a municipal police member coverage plan as determined by the public employees retirement association;

(b) the municipality or county law enforcement agency provides seven thousand five hundred dollars (\$7,500) in matching funds to the law enforcement officer; and

(c) the distribution and the matching funds paid to a law enforcement officer shall not constitute the officer's base salary or wages and shall not be considered to be salary or otherwise be used to determine a pension for the purposes of the Public Employees Retirement Act.

B. For the academy, amounts distributed from the fund shall be expended only for providing tourniquet and trauma kits and training on the use of tourniquet and trauma kits pursuant to Section 29-7-7.7 NMSA 1978.

C. Amounts distributed from the fund shall be expended only pursuant to approved budgets and upon duly executed vouchers approved as required by law."

## **Chapter 74 Section 4 Laws 2018**

SECTION 4. Section 30-7-16 NMSA 1978 (being Laws 1981, Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT, TRANSPORTATION OR POSSESSION BY A FELON--PENALTY.--

A. It is unlawful for a felon to receive, transport or possess any firearm or destructive device in this state.

B. Any person violating the provisions of this section shall be guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of the Criminal Sentencing Act; provided that the violation of and the sentence imposed pursuant to this subsection shall be increased to a violation of and the sentence for a third degree felony if the person has previously been convicted of a capital felony or a serious violent offense provided in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978.

C. As used in this section:

(1) except as provided in Paragraph (2) of this subsection, "destructive device" means:

(a) any explosive, incendiary or poison gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge of more than four ounces; 4) missile having an explosive or incendiary charge of more than one-fourth ounce; 5) mine; or 6) similar device;

(b) any type of weapon by whatever name known that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell that is generally recognized as particularly suitable for sporting purposes; or

(c) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in this paragraph and from which a destructive device may be readily assembled;

(2) the term "destructive device" does not include any device that is neither designed nor redesigned for use as a weapon or any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(3) "felon" means a person convicted of a felony offense by a court of the United States or of any state or political subdivision thereof and:

(a) less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred sentence; and

(4) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. "Firearm" includes any handgun, rifle or shotgun."

## **Chapter 74 Section 5 Laws 2018**

SECTION 5. Section 30-8-4 NMSA 1978 (being Laws 1963, Chapter 303, Section 8-4, as amended) is amended to read:

"30-8-4. LITTERING.--

A. Littering consists of discarding refuse:

(1) on public property in any manner other than by placing the refuse in a receptacle provided for the purpose by the responsible governmental authorities or otherwise in accordance with lawful direction; or

(2) on private property not owned or lawfully occupied or controlled by the person, except with the consent of its owner, lessee or occupant.

B. Whoever commits littering is guilty of a petty misdemeanor and, notwithstanding the provisions of Section 31-19-1 NMSA 1978, shall be punished by a fine of fifty dollars (\$50.00). The use of uniform traffic citations is authorized for the enforcement of this section. The court may to the extent permitted by law, as a condition to suspension of any other penalty provided by law, require a person who commits littering to pick up and remove from any public place or any private property, with prior permission of the legal owner, any litter deposited thereon.

## Chapter 74 Section 6 Laws 2018

SECTION 6. Section 66-3-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 21, as amended) is amended to read:

### "66-3-1. VEHICLES SUBJECT TO REGISTRATION--EXCEPTIONS.--

A. With the exception of vehicles identified in Subsection B of this section, every motor vehicle, manufactured home, trailer, semitrailer and pole trailer when driven or moved upon a highway and every off-highway motor vehicle is subject to the registration and certificate of title provisions of the Motor Vehicle Code except:

(1) any such vehicle driven or moved upon a highway in conformance with the provisions of the Motor Vehicle Code relating to manufacturers, dealers, lien-holders or nonresidents;

(2) any such vehicle that is driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(3) an implement of husbandry that is only incidentally operated or moved upon a highway;

(4) special mobile equipment;

(5) a vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;

(6) a freight trailer if it is:

(a) properly registered in another state;

(b) identified by a proper base registration plate that is properly displayed; and

(c) identified by other registration documents that are in the possession of the operator and exhibited at the request of a police officer;

(7) a freight trailer or utility trailer owned and used by:

(a) a nonresident solely for the transportation of farm products purchased by the nonresident from growers or producers of the farm products and transported in the trailer out of the state;

(b) a farmer or a rancher who transports to market only the produce, animals or fowl produced by that farmer or rancher or who transports back to the farm or ranch supplies for use thereon; or

(c) a person who transports animals to and from fairs, rodeos or other places, except racetracks, where the animals are exhibited or otherwise take part in performances, in trailers drawn by a motor vehicle or truck of less than ten thousand pounds gross vehicle weight rating bearing a proper registration plate, but in no case shall the owner of an unregistered trailer described in this paragraph perform such uses for hire;

(8) a moped;

(9) an electric personal assistive mobility device;

(10) a vehicle moved on a highway by a towing service as defined in Section 59A-50-2 NMSA 1978; and

(11) an off-highway motor vehicle exempted pursuant to Section 66-3-1005 NMSA 1978.

B. A certificate of title required pursuant to Subsection A of this section is not required for a vehicle of a type subject to registration owned by:

(1) the government of the United States; or

(2) a carrier that is from a jurisdiction that is not a participant in the International Fuel Tax Agreement, that is authorized by the United States government or an agency of the United States government to conduct cross-border operations beyond the commercial border zone pursuant to the provisions of the North American Free Trade Agreement and that identifies New Mexico as the carrier's base jurisdiction.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. A person charged with violating this section shall not be convicted if the person produces, in court, evidence of compliance valid at the time of issuance of the citation."

## **Chapter 74 Section 7 Laws 2018**

SECTION 7. Section 66-3-18 NMSA 1978 (being Laws 1978, Chapter 35, Section 38, as amended) is amended to read:

"66-3-18. DISPLAY OF REGISTRATION PLATES AND TEMPORARY REGISTRATION PERMITS--DISPLAYS PROHIBITED AND ALLOWED.--

A. The registration plate shall be attached to the rear of the vehicle for which it is issued; however, the registration plate shall be attached to the front of a road tractor or truck tractor. The plate shall be securely fastened at all times in a fixed horizontal position at a height of not less than twelve inches from the ground, measuring from the bottom of the plate. It shall be in a place and position so as to be clearly visible,

and it shall be maintained free from foreign material and in a condition to be clearly legible.

B. A demonstration or temporary registration permit shall be firmly affixed to the inside left rear window of the vehicle to which it is issued, unless such display presents a safety hazard or the demonstration or temporary registration permit is not visible or readable from that position, in which case, the demonstration or temporary registration permit shall be displayed in such a manner that it is clearly visible from the rear or left side of the vehicle.

C. No vehicle while being operated on the highways of this state shall have displayed either on the front or the rear of the vehicle any registration plate, including validating sticker, other than one issued or validated for the current registration period by the department or any other licensing authority having jurisdiction over the vehicle. No expired registration plate or validating sticker shall be displayed on the vehicle other than an expired special registration plate, which may be exhibited on the front of the vehicle.

D. Nothing contained in this section shall be construed as prohibiting the use of a promotional or advertising plate on the front of the vehicle.

E. A violation of a provision of this section is a penalty assessment misdemeanor."

## **Chapter 74 Section 8 Laws 2018**

SECTION 8. Section 66-3-27 NMSA 1978 (being Laws 1978, Chapter 35, Section 47) is amended to read:

### **"66-3-27. HORSELESS CARRIAGE REGISTRATION.--**

A. A motor vehicle at least thirty-five years old owned as a collector's item and used solely for exhibition and educational purposes is a "horseless carriage". On application to the secretary, the owner of the horseless carriage may receive a certificate of title and permanent registration upon:

(1) payment of a fee of ten dollars (\$10.00); and

(2) submission of a witnessed bill of sale on the horseless carriage or an affidavit that the vehicle was assembled by the owner from parts of automobiles at least thirty-five years old.

B. Upon approval of the application, the secretary shall issue one five-year registration plate with registration numbers and the words "Horseless Carriage", "Land of Enchantment" and "New Mexico". The plate, bearing no date, shall be attached to the rear of the vehicle.

C. Upon transfer of ownership of a horseless carriage, the new owner shall apply to the secretary for a transfer of title as provided in and subject to the penalties contained in Section 66-3-103 NMSA 1978. The registration plates shall remain with the transferred vehicle.

D. Beginning in 1968 and each five-year period thereafter, every plate shall be revalidated upon application approved by the secretary, accompanied by a fee of five dollars (\$5.00). Upon loss of the original registration plate, a duplicate plate may be obtained by the owner upon payment of a fee of ten dollars (\$10.00).

E. A person who violates this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 9 Laws 2018**

SECTION 9. Section 66-3-103 NMSA 1978 (being Laws 1978, Chapter 35, Section 50, as amended) is amended to read:

"66-3-103. NEW OWNER TO SECURE TRANSFER OF REGISTRATION AND NEW CERTIFICATE OF TITLE--TIME PERIOD--PENALTY.--

A. Except as otherwise provided by law, the transferee before operating or permitting the operation of the vehicle or boat on a highway or waterway shall present to the division the certificate of registration and the properly assigned certificate of title and shall apply for and obtain a new certificate of title and a new registration for the vehicle.

B. A transferee who fails to apply for transfer of registration and issuance of a new certificate of title within thirty days from the date of transfer is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 10 Laws 2018**

SECTION 10. Section 66-3-403 NMSA 1978 (being Laws 1978, Chapter 35, Section 82, as amended) is amended to read:

"66-3-403. EXPIRATION OF DEALER PLATES.--Every dealer plate issued pursuant to Section 66-3-402 NMSA 1978 expires at midnight on December 31 of each year. Upon payment of the proper fee, the person to whom the dealer plate was issued may apply to the department for a new plate or validating sticker for the ensuing year. Renewal of all dealer plates shall be on or before December 31. A person who operates a vehicle with a dealer plate that has expired is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 11 Laws 2018**

SECTION 11. Section 66-3-409 NMSA 1978 (being Laws 1978, Chapter 199, Section 1, as amended) is amended to read:

"66-3-409. SPECIAL REGISTRATION PLATES--MEDAL OF HONOR RECIPIENTS.--

A. The department shall issue distinctive pale blue, white and gold registration plates to any person who has been awarded the medal of honor and who so requests and submits proof satisfactory to the department that the person has been awarded that medal. The plates shall each bear the inscription "Medal of Honor Recipient". No fee, including the regular registration fee applicable to the passenger motor vehicle, if any, shall be collected for the issuance of a special registration plate pursuant to this section.

B. No person shall falsely make any representation that the person is a medal of honor recipient in order to be eligible to be issued special registration plates pursuant to this section when the person is in fact not such a recipient. A person who violates the provisions of this subsection is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 12 Laws 2018**

SECTION 12. Section 66-3-412.1 NMSA 1978 (being Laws 2001, Chapter 243, Section 1) is amended to read:

"66-3-412.1. SPECIAL MOTORCYCLE REGISTRATION PLATES FOR ARMED FORCES VETERANS.--

A. The department shall issue distinctive motorcycle registration plates indicating that the recipient is a veteran of the armed forces of the United States or is retired from the national guard or military reserves, if that person submits proof satisfactory to the department of honorable discharge from the armed forces or of retirement from the national guard or military reserves.

B. For a fee of seven dollars (\$7.00), which is in addition to the regular motorcycle registration fees, a motorcycle owner who is a veteran of the armed forces of the United States or is retired from the national guard or military reserves may apply for the issuance of a special motorcycle registration plate as defined in Subsection A of this section. No two owners shall be issued identically lettered or numbered plates.

C. An owner shall make a new application and pay a new fee each year the owner desires to obtain a special motorcycle registration plate. The owner will have first priority on that plate for each subsequent year that the owner makes a timely and appropriate application.



D. Each armed forces veteran may elect to receive a veteran-designation decal to be placed across the top of the special motorcycle registration plate, centered above the registration number. Replacement or different veteran-designation decals shall be available for purchase from the department at a reasonable charge to be set by the secretary. The department shall furnish the following veteran-designation decals with the armed forces veteran motorcycle registration plate to a:

- (1) medal of honor recipient;
- (2) silver star recipient;
- (3) bronze star recipient;
- (4) navy cross recipient;
- (5) distinguished service cross recipient;
- (6) air force cross recipient;
- (7) ex-prisoner of war;
- (8) disabled veteran;
- (9) purple heart veteran;
- (10) atomic veteran;
- (11) Pearl Harbor survivor;
- (12) Navajo code talker;
- (13) Vietnam veteran;
- (14) Korean veteran;
- (15) disabled Korean veteran;
- (16) World War II veteran;
- (17) World War I veteran;
- (18) Grenada veteran;
- (19) Panama veteran;
- (20) Desert Storm veteran; or

(21) Iraqi Freedom veteran.

E. The revenue from the fee imposed pursuant to Subsection B of this section shall be retained by the department and is appropriated to the department for the manufacture and issuance of the special motorcycle registration plates for armed forces veterans.

F. A person shall not falsely represent that the person was honorably discharged from the armed forces or retired from the national guard or military reserves so as to be eligible to be issued a special registration plate pursuant to this section. A person who violates the provisions of this subsection is guilty of a penalty assessment misdemeanor."

### **Chapter 74 Section 13 Laws 2018**

SECTION 13. Section 66-3-413 NMSA 1978 (being Laws 1980, Chapter 45, Section 1, as amended) is amended to read:

"66-3-413. SPECIAL REGISTRATION PLATES--NATIONAL GUARD MEMBERS.--

A. The department shall issue distinctive registration plates to any person who is a member of the New Mexico national guard, upon the submission by the person of proof satisfactory to the department that the person is currently a member of the guard. No fee, including the regular registration fee applicable to passenger motor vehicles, shall be collected for issuance of a special registration plate pursuant to this section.

B. A person shall not falsely represent that the person is an active member of the New Mexico national guard so as to be eligible to be issued special registration plates pursuant to this section when the person in fact is not a current member of the New Mexico national guard.

C. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor."

### **Chapter 74 Section 14 Laws 2018**

SECTION 14. Section 66-3-415 NMSA 1978 (being Laws 1989, Chapter 162, Section 1, as amended) is amended to read:

"66-3-415. SPECIAL REGISTRATION PLATES--PEARL HARBOR SURVIVORS.--

A. The department shall issue distinctive registration plates indicating that the recipient is a survivor of the attack on Pearl Harbor if that person submits satisfactory proof to the department indicating that the person:

(1) was a member of the United States armed forces on December 7, 1941;

(2) received an honorable discharge from the United States armed forces; and

(3) was on station on December 7, 1941 during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not exceeding three miles.

B. The department shall confirm satisfactory proof with the New Mexico chapter of the Pearl Harbor survivors association.

C. No fee other than the registration fee applicable to the passenger motor vehicle, if any, shall be collected for the issuance of the distinctive registration plate pursuant to this section.

D. The recipient of a distinctive plate issued pursuant to this section shall be issued replacement plates upon request and without charge if the plate is lost, stolen or mutilated.

E. A person eligible for a distinctive registration plate pursuant to this section and also eligible for one or more special or distinctive registration plates pursuant to Sections 66-3-406, 66-3-409, 66-3-411, 66-3-412 and 66-3-414 NMSA 1978 shall be issued only one special or distinctive registration plate of the person's choice.

F. A person shall not falsely represent that the person is a survivor of the attack on Pearl Harbor so as to be eligible to be issued distinctive plates pursuant to this section when that person in fact is not a survivor of the attack on Pearl Harbor.

G. A person who violates the provisions of Subsection F of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 15 Laws 2018**

SECTION 15. Section 66-3-417 NMSA 1978 (being Laws 1986, Chapter 45, Section 2, as amended) is amended to read:

"66-3-417. RADIO STATION LICENSEES--SPECIAL REGISTRATION PLATES--  
-FEE.--

A. Any applicant who is a resident of this state who holds an official commercial or amateur radio station license in good standing issued by the federal communications commission or who is a bona fide employee of such license holder shall, upon compliance with all laws of this state relating to registration and the licensing of motor vehicles and drivers, be furnished with a registration plate for the motor vehicle as prescribed by law, upon which:

(1) in lieu of the numbers required for identification, shall be inscribed the official call letters of the applicant as assigned by the federal communications commission;

(2) the official call letters shall be inscribed as internationally recognized call letters, including the number zero with a diagonal line drawn across the number from the upper right of the number down to the lower left of the number; and

(3) the words "amateur radio operator" shall be inscribed on the registration plate upon request of the applicant.

B. The licensee of the commercial or amateur radio station shall certify to the secretary the names of bona fide personnel eligible to receive such special registration plates. The applicant shall pay, in addition to the registration tax required by law, the sum of three dollars (\$3.00) for the special registration plate, which additional sum shall be deposited by the secretary with the state treasurer to be credited to the state road fund. At the time of delivery of the special registration plate, the applicant shall surrender the current registration plate issued for the motor vehicle. This provision for the issuance of a special registration plate shall apply only if the applicant's motor vehicle is already registered in New Mexico so that the applicant has a valid regular New Mexico registration plate issued for that motor vehicle under which to operate during the time it will take to have the necessary special registration plate made. The secretary may make such reasonable regulations governing the use of the special registration plate as will assure the full compliance by the owner and holder of the special plate with all existing laws governing the registration, transfer and use of motor vehicles. When the ownership of the motor vehicle for which the special registration plate has been furnished by the secretary changes from one person to another, the special registration plate authorized in this section shall be promptly removed from the motor vehicle by the seller and returned to the secretary, at which time the seller or the buyer of the motor vehicle is entitled to receive a registration plate for the motor vehicle. A seller who fails to remove and return the special registration plate as required in this subsection is guilty of a penalty assessment misdemeanor. The purpose for the issuance of the special registration plate is to readily identify personnel in aid of the performance of necessary duties for civil defense in the communications field."

## **Chapter 74 Section 16 Laws 2018**

SECTION 16. Section 66-3-419 NMSA 1978 (being Laws 1990, Chapter 46, Section 2, as amended) is amended to read:

"66-3-419. SPECIAL REGISTRATION PLATES--ARMED FORCES VETERANS.--

A. The department shall issue distinctive registration plates indicating that the recipient is a veteran of the armed forces of the United States or is retired from the national guard or military reserves if that person submits proof satisfactory to the department of honorable discharge from the armed forces or of retirement from the national guard or military reserves.

B. For a fee of fifteen dollars (\$15.00), which is in addition to the regular motor vehicle registration fees, any motor vehicle owner who is a veteran of the armed forces of the United States or is retired from the national guard or military reserves may apply for the issuance of a special registration plate, as defined in Subsection A of this section. No two owners shall be issued identically lettered or numbered plates.

C. The fifteen-dollar (\$15.00) fee provided in Subsection B of this section shall be waived for each registration period in which a validating sticker is issued under the provisions of Section 66-3-17 NMSA 1978, in lieu of the issuance of a special armed forces veteran plate.

D. Each armed forces veteran may elect to receive a veteran-designation decal to be placed across the top of the plate, centered above the registration number. Replacement or different veteran-designation decals shall be available for purchase from the department at a reasonable charge to be set by the secretary. The department shall furnish the following veteran-designation decals with the armed forces veteran plate to a:

- (1) medal of honor recipient;
- (2) silver star recipient;
- (3) bronze star recipient;
- (4) navy cross recipient;
- (5) distinguished service cross recipient;
- (6) air force cross recipient;
- (7) ex-prisoner of war;
- (8) disabled veteran;
- (9) purple heart veteran;
- (10) atomic veteran;

- (11) Pearl Harbor survivor;
- (12) Navajo code talker;
- (13) Vietnam veteran;
- (14) Korean veteran;
- (15) disabled Korean veteran;
- (16) World War II veteran;
- (17) World War I veteran;
- (18) Grenada veteran;
- (19) Panama veteran;
- (20) Desert Storm veteran; or
- (21) Iraqi Freedom veteran.

E. The revenue from the special registration plates for the armed forces veterans fee imposed by Subsection B of this section shall be distributed as follows:

(1) seven dollars (\$7.00) of the fee collected for each registration plate shall be retained by the department and is appropriated to the department for the manufacture and issuance of the registration plates; and

(2) eight dollars (\$8.00) of the fee collected for each registration plate shall be transferred pursuant to the provisions of Subsection F of this section.

F. There is created in the state treasury the "armed forces veterans license fund". A portion of the fee collected for each special registration plate for armed forces veterans, as provided in Subsection E of this section, shall be transferred to the state treasurer for the credit of the fund. Expenditures from the fund shall be made on vouchers issued and signed by the secretary of veterans' services or the secretary's authorized representative upon warrants drawn by the department of finance and administration for the purpose of expanding services to rural areas of the state, including Native American communities and senior citizen centers. Any unexpended or unencumbered balance remaining at the end of any fiscal year in the armed forces veterans license fund shall not revert to the general fund.

G. A person shall not falsely represent that the person was honorably discharged from the armed forces or retired from the national guard or military reserves so as to be eligible to be issued a special registration plate pursuant to this section. A

person who violates the provisions of this subsection is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 17 Laws 2018**

SECTION 17. Section 66-3-421 NMSA 1978 (being Laws 1993, Chapter 180, Section 8) is amended to read:

"66-3-421. SPECIAL REGISTRATION PLATES--NEW MEXICO RANGERS AND NEW MEXICO MOUNTED PATROL--SUBMISSION OF PROOF--PENALTY.--

A. The department shall issue special registration plates to any person who is a New Mexico ranger or a member of the New Mexico mounted patrol upon the submission by the person of proof satisfactory to the department that the person is currently a New Mexico ranger or a member of the New Mexico mounted patrol. No fee, including the regular registration fee applicable to the passenger motor vehicle, if any, shall be collected for the issuance of the special registration plates pursuant to this section.

B. A person shall not falsely represent that the person is a New Mexico ranger or a member of the New Mexico mounted patrol so as to be eligible to be issued special registration plates pursuant to this section when the person in fact is not a New Mexico ranger or a member of the New Mexico mounted patrol.

C. A person eligible for a special registration plate provided for in this section shall only be eligible for one such plate.

D. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 18 Laws 2018**

SECTION 18. Section 66-3-422 NMSA 1978 (being Laws 1998, Chapter 21, Section 1, as amended) is amended to read:

"66-3-422. SPECIAL REGISTRATION PLATES--FIREFIGHTERS AND VOLUNTEER FIREFIGHTERS.--

A. The department shall issue special registration plates to a person employed as a New Mexico firefighter, upon the submission by the person of proof satisfactory to the department that the person is currently employed as a New Mexico firefighter, including submission of a signed consent form from the fire chief.

B. The department shall issue special registration plates to a person who is an active volunteer firefighter with a volunteer fire department recognized by the state fire marshal upon the submission by the person of proof satisfactory to the department

that the person is currently an active member of a recognized volunteer fire department. Such proof shall include the submission of a signed consent form from the fire chief.

C. A person shall not falsely represent that the person is a New Mexico firefighter or volunteer firefighter if the person is not, in fact, a New Mexico firefighter or volunteer firefighter. The secretary shall determine what constitutes satisfactory proof of employment as a New Mexico firefighter or status as a volunteer firefighter.

D. A person who violates the provisions of Subsection C of this section is guilty of a penalty assessment misdemeanor.

E. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for New Mexico firefighters and volunteer firefighters.

F. Ten dollars (\$10.00) of the fee collected pursuant to Subsection E of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing special registration plates for New Mexico firefighters and volunteer firefighters.

G. The amount of the fee collected pursuant to this section less any amount distributed pursuant to Subsection F of this section shall be deposited in the firefighters' survivors fund.

H. The secretary shall approve the final plate design for the special registration plates for New Mexico firefighters in accordance with New Mexico law. The secretary shall approve and issue a separate and distinctive plate clearly marked as "volunteer" for issuance to volunteer firefighters.

I. When a person holding a special plate pursuant to this section ceases to be employed as a firefighter or serve as an active volunteer firefighter, the person shall immediately remove the plate from the vehicle and return it to the secretary, at which time it shall be exchanged for a regular registration plate. A person who fails to remove and return a special plate as required by the provisions of this subsection is guilty of a penalty assessment misdemeanor. A firefighter who holds a special plate and retires may retain the special plate."

## **Chapter 74 Section 19 Laws 2018**

SECTION 19. Section 66-3-424.4 NMSA 1978 (being Laws 2003, Chapter 176, Section 2) is amended to read:

"66-3-424.4. STANDARDIZED SPECIAL REGISTRATION PLATES--RETIRED MEMBERS OF THE NEW MEXICO NATIONAL GUARD.--



A. The department shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is a person who is a retired member of the New Mexico national guard upon submission by the person of proof satisfactory to the department that the person is a retired member of the guard.

B. A person shall not falsely represent that the person is a retired member of the New Mexico national guard if that person is not in fact a retired member of the guard.

C. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor.

D. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for retired members of the New Mexico national guard.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing special registration plates for retired members of the New Mexico national guard.

F. The amount of the fee collected pursuant to Subsection D of this section less any amount distributed pursuant to Subsection E of this section shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978.

G. The secretary shall approve the final logo design for the special registration plate for retired members of the New Mexico national guard."

## **Chapter 74 Section 20 Laws 2018**

SECTION 20. Section 66-3-424.5 NMSA 1978 (being Laws 2003, Chapter 177, Section 2) is amended to read:

"66-3-424.5. SPECIAL REGISTRATION PLATES--NEW MEXICO MEMBERS OF THE FRATERNAL ORDER OF POLICE.--

A. The department shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is a New Mexico member of the fraternal order of police.

B. A person shall not falsely represent that the person is a New Mexico member of the fraternal order of police if the person is, in fact, not a New Mexico

member of the fraternal order of police. The secretary shall determine what constitutes satisfactory proof.

C. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor.

D. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for a New Mexico member of the fraternal order of police.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing a special registration plate for a New Mexico member of the fraternal order of police.

F. The amount of the fee collected pursuant to this section less any amount distributed pursuant to Subsection E of this section shall be deposited in the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978.

G. The secretary shall approve the final logo design for the special registration plates for New Mexico members of the fraternal order of police.

H. When a person holding a special plate ceases to be a New Mexico member of the fraternal order of police, the person shall immediately remove the plate from the vehicle and return it to the secretary, at which time it shall be exchanged for a regular registration plate. A person who fails to remove and return a special plate as required by the provisions of this subsection is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 21 Laws 2018**

SECTION 21. Section 66-3-424.7 NMSA 1978 (being Laws 2003, Chapter 179, Section 2) is amended to read:

"66-3-424.7. REGISTRATION PLATES--MEMBERS OF THE CIVIL AIR PATROL, NEW MEXICO WING.--

A. The department shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is a member of the civil air patrol, New Mexico wing, upon the submission by the person of proof satisfactory to the department that the person is a member of the civil air patrol, New Mexico wing. Such proof shall include the submission of a signed consent form from the civil air patrol, New Mexico wing.

B. A person shall not falsely represent that the person is a member of the civil air patrol, New Mexico wing, if that person is, in fact, not a member of the civil air patrol, New Mexico wing. The secretary shall determine what constitutes satisfactory proof that a person is a member of the civil air patrol, New Mexico wing.

C. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor.

D. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for a member of the civil air patrol, New Mexico wing.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing special registration plates for members of the civil air patrol, New Mexico wing. The remaining fifteen dollars (\$15.00) shall be deposited in the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978.

F. The secretary shall approve the final logo design for the special registration plates for members of the civil air patrol, New Mexico wing, in accordance with New Mexico law. The secretary shall approve and issue a separate and distinctive logo clearly marked as "civil air patrol" for issuance to members of the civil air patrol, New Mexico wing."

## **Chapter 74 Section 22 Laws 2018**

SECTION 22. Section 66-3-424.9 NMSA 1978 (being Laws 2003, Chapter 181, Section 2) is amended to read:

"66-3-424.9. STANDARDIZED SPECIAL REGISTRATION PLATES--RETIRED FIREFIGHTERS.--

A. The department shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is a person who is a retired New Mexico firefighter upon submission by the person of proof satisfactory to the department that the person has retired from active employment as a firefighter.

B. A person shall not falsely represent that the person is a retired New Mexico firefighter if the person is not, in fact, a retired New Mexico firefighter. The secretary shall determine what constitutes proof of previous active employment as a firefighter and proof of retirement.

C. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor.

D. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for retired New Mexico firefighters.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing special registration plates for retired New Mexico firefighters.

F. The amount of the fee collected pursuant to this section less any amount distributed pursuant to Subsection E of this section shall be deposited in the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978.

G. The secretary shall approve the final logo design for the special registration plates for retired New Mexico firefighters."

## **Chapter 74 Section 23 Laws 2018**

SECTION 23. Section 66-3-424.13 NMSA 1978 (being Laws 2003, Chapter 211, Section 2) is amended to read:

"66-3-424.13. STANDARDIZED SPECIAL REGISTRATION PLATES--RETIRED NEW MEXICO STATE POLICE OFFICERS.--

A. The department shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is a person who is a retired New Mexico state police officer upon submission by the person of proof satisfactory to the department that the person is a retired New Mexico state police officer. The proof shall include the submission of a retirement commission from the New Mexico state police.

B. A person shall not falsely represent that the person is a retired New Mexico state police officer if that person is, in fact, not a retired New Mexico state police officer. The secretary shall determine what constitutes satisfactory proof that a person is a retired New Mexico state police officer.

C. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor.

D. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for retired New Mexico state police officers.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing special registration plates for retired New Mexico state police officers. The remaining fifteen dollars (\$15.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978.

F. The secretary shall approve the final logo design for the special registration plate for retired New Mexico state police officers. The logo shall be clearly marked as "retired New Mexico state police" for issuance to retired New Mexico state police officers."

## **Chapter 74 Section 24 Laws 2018**

SECTION 24. Section 66-3-424.16 NMSA 1978 (being Laws 2005, Chapter 344, Section 1) is amended to read:

"66-3-424.16. SPECIAL REGISTRATION PLATES--EMERGENCY MEDICAL TECHNICIANS.--

A. The department shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is an emergency medical technician.

B. A person shall not falsely represent that the person is an emergency medical technician if the person is, in fact, not an emergency medical technician licensed in New Mexico. The secretary shall determine what constitutes satisfactory proof.

C. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor.

D. A fee of twenty-five dollars (\$25.00), which shall be in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for an emergency medical technician.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing a special registration plate for emergency medical technicians.

F. The amount of the fee collected pursuant to this section less any amount distributed pursuant to Subsection E of this section shall be deposited in the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978.

G. The secretary shall approve the final logo design for the special registration plate for emergency medical technicians.

H. When a person holding a special registration plate ceases to be an emergency medical technician, the person shall immediately remove the plate from the vehicle and return it to the department, at which time it shall be exchanged for a regular registration plate. A person who fails to remove and return a plate as required in this subsection is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 25 Laws 2018**

SECTION 25. Section 66-3-424.28 NMSA 1978 (being Laws 2009, Chapter 86, Section 1) is amended to read:

"66-3-424.28. STANDARDIZED SPECIAL REGISTRATION PLATES--RETIRED NEW MEXICO LAW ENFORCEMENT OFFICERS.--

A. The department shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is a person who is a retired New Mexico law enforcement officer upon submission by the person of proof satisfactory to the department that the person is a retired New Mexico law enforcement officer. The proof shall include the submission of a retirement commission from a New Mexico law enforcement agency.

B. A person shall not falsely represent that the person is a retired New Mexico law enforcement officer if that person is, in fact, not a retired New Mexico law enforcement officer. The secretary shall determine what constitutes satisfactory proof that a person is a retired New Mexico law enforcement officer.

C. A person who violates the provisions of Subsection B of this section is guilty of a penalty assessment misdemeanor.

D. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for retired New Mexico law enforcement officers.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing special registration plates for retired New Mexico law enforcement officers. The remaining fifteen dollars (\$15.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978.

F. The secretary shall approve the final logo design for the special registration plate for retired New Mexico law enforcement officers. The logo shall be

clearly marked as "retired New Mexico law enforcement officer" for issuance to retired New Mexico law enforcement officers."

## **Chapter 74 Section 26 Laws 2018**

SECTION 26. Section 66-3-701 NMSA 1978 (being Laws 1978, Chapter 35, Section 100) is amended to read:

"66-3-701. BICYCLES--EFFECT OF REGULATIONS.--

A. It is a penalty assessment misdemeanor for a person to do any act forbidden or fail to perform any act required by Sections 66-3-701 through 66-3-707 NMSA 1978.

B. The parent of any child and the guardian of any ward shall not authorize or permit any child or ward to violate any of the provisions of the Motor Vehicle Code.

C. These regulations applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated in Sections 66-3-701 through 66-3-707 NMSA 1978."

## **Chapter 74 Section 27 Laws 2018**

SECTION 27. Section 66-3-801 NMSA 1978 (being Laws 1978, Chapter 35, Section 107, as amended) is amended to read:

"66-3-801. EQUIPMENT--PROHIBITED ACTS.--

A. Except as otherwise provided in this section, it is a penalty assessment misdemeanor for a person to drive or move or for the owner to cause or permit to be driven or moved on any highway any vehicle or combination of vehicles that is in such unsafe condition as to endanger any person or that does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as is required by Sections 66-3-801 through 66-3-887 NMSA 1978 or that is equipped in any manner that is in violation of those sections or for any person to do any act forbidden or fail to perform any act required under those sections.

B. Nothing contained in Sections 66-3-801 through 66-3-887 NMSA 1978 shall be construed to prohibit the use of additional parts and accessories on any vehicle that are not inconsistent with the provisions of those sections.

C. The provisions of Sections 66-3-801 through 66-3-887 NMSA 1978 with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as made applicable in those sections.

D. The provisions of Sections 66-3-801 through 66-3-887 NMSA 1978 apply to vehicles subject to the provisions of the Motor Carrier Safety Act only to the extent that the provisions of Sections 66-3-801 through 66-3-887 NMSA 1978 do not conflict with the provisions of the Motor Carrier Safety Act and regulations promulgated under that act."

## **Chapter 74 Section 28 Laws 2018**

SECTION 28. Section 66-3-802 NMSA 1978 (being Laws 1978, Chapter 35, Section 108) is amended to read:

"66-3-802. WHEN LIGHTED LAMPS ARE REQUIRED.--

A. Every vehicle upon a highway within this state at any time from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet ahead shall display lighted lamps and illuminating devices as respectively required in Sections 66-3-801 through 66-3-887 NMSA 1978 for different classes of vehicles, subject to exceptions with respect to parked vehicles as stated in Section 66-3-825 NMSA 1978.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 29 Laws 2018**

SECTION 29. Section 66-3-804 NMSA 1978 (being Laws 1978, Chapter 35, Section 110, as amended) is amended to read:

"66-3-804. HEADLAMPS ON MOTOR VEHICLES.--

A. Every motor vehicle other than a motorcycle shall be equipped with at least two headlamps with at least one on each side of the front of the motor vehicle, which headlamps comply with the requirements and limitations set forth in Sections 66-3-801 through 66-3-887 NMSA 1978.

B. Every motorcycle shall be equipped with at least one and not more than two headlamps that comply with the requirements and limitations of Sections 66-3-801 through 66-3-887 NMSA 1978.

C. Every headlamp upon every motor vehicle, including every motorcycle, shall be located at a height measured from the center of the headlamp of not more than fifty-four inches or less than twenty inches to be measured as set forth in Subsection B of Section 66-3-803 NMSA 1978. The provisions of this subsection apply only to new motor vehicles sold after July 1, 1953.



D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 30 Laws 2018**

SECTION 30. Section 66-3-805 NMSA 1978 (being Laws 1978, Chapter 35, Section 111) is amended to read:

"66-3-805. TAIL LAMPS.--

A. Every motor vehicle, trailer, semitrailer, pole trailer and any other vehicle that is being drawn at the end of a train of vehicles shall be equipped with at least one tail lamp mounted on the rear that, when lighted as required in Section 66-3-802 NMSA 1978, emits a red light plainly visible from a distance of five hundred feet to the rear; provided that, in the case of a train of vehicles, only the tail lamp on the rearmost vehicle need actually be seen from the distance specified. Every such vehicle, other than a truck tractor, registered in this state and manufactured or assembled after July 1, 1953 shall be equipped with at least two tail lamps mounted on the rear that when lighted as required in Section 66-3-802 NMSA 1978 comply with the provisions of this section.

B. Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches or less than twenty inches.

C. Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted.

D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 31 Laws 2018**

SECTION 31. Section 66-3-806 NMSA 1978 (being Laws 1978, Chapter 35, Section 112, as amended) is amended to read:

"66-3-806. NEW MOTOR VEHICLES TO BE EQUIPPED WITH REFLECTORS.--

A. Every new motor vehicle hereafter sold and operated upon a highway, other than a truck tractor, shall carry on the rear, either as a part of the tail lamps or separately, two red reflectors, except that every motorcycle shall carry at least one reflector, meeting the requirements of this section, and except that vehicles of the type mentioned in Section 66-3-809 NMSA 1978 shall be equipped with reflectors as required in those sections applicable to those vehicles.

B. Every reflector shall be mounted on the vehicle at a height not less than twenty inches or more than sixty inches measured as set forth in Subsection B of Section 66-3-803 NMSA 1978 and shall be of such size and characteristics and so mounted as to be visible at night from all distances within three hundred feet to fifty feet from the vehicle when directly in front of lawful upper beams of headlamps, except that visibility from a greater distance is hereinafter required of reflectors on certain types of vehicles.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 32 Laws 2018**

SECTION 32. Section 66-3-846 NMSA 1978 (being Laws 1978, Chapter 35, Section 152, as amended) is amended to read:

"66-3-846. WINDSHIELDS MUST BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS--WINDOWS MUST BE TRANSPARENT--EXCEPTION.--

A. No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon or in the front windshield, the windows to the immediate right and left of the driver or the rearmost window if the latter is used for driving visibility, except as provided in Section 66-3-846.1 NMSA 1978. The rearmost window is not necessary for driving visibility where outside rearview mirrors are attached to the vehicle.

B. The windshield on every motor vehicle except a motorcycle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

C. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 33 Laws 2018**

SECTION 33. Section 66-3-846.1 NMSA 1978 (being Laws 1997, Chapter 151, Section 2) is amended to read:

"66-3-846.1. SUN SCREENING MATERIAL ON WINDSHIELDS AND WINDOWS--REQUIREMENTS--VIOLATION--PENALTY.--

A. A person shall not operate on any street or highway a motor vehicle that is registered or required to be registered in this state if that motor vehicle has a sun screening material on the windshield or any window that does not comply with the requirements of this section.

B. Except as otherwise provided in this section, a sun screening material:

(1) when used in conjunction with the windshield, shall be nonreflective, shall not be red, yellow or amber in color and shall be used only along the top of the windshield, not extending downward beyond the ASI line or more than five inches from the top of the windshield, whichever is closer to the top of the windshield; and

(2) when used in conjunction with the safety glazing materials of the side wings or side windows located at the immediate right and left of the driver, the side windows behind the driver and the rearmost window shall be nonreflective, shall have a light transmission of not less than twenty percent and shall be used only on the windows of a motor vehicle equipped with one right and one left outside rearview mirror.

C. Each manufacturer shall:

(1) certify to the division that a sun screening material used by that manufacturer is in compliance with the nonreflectivity and light transmission requirements of this section;

(2) provide a label not to exceed one and one-half square inches in size that:

(a) is installed permanently and legibly between the sun screening material and each glazing surface to which it is applied;

(b) contains the manufacturer's name, the date that the sun screening material was manufactured and the percentage of light transmission; and

(c) is placed in the left lower corner of each glazing surface when facing the motor vehicle from the outside; and

(3) include instructions with the sun screening material for proper installation, including the affixing of the label specified in this subsection.

D. A person shall not:

(1) offer for sale or for use any sun screening material for motor vehicle use not in compliance with this section; or

(2) install any sun screening material on motor vehicles intended for operation on any street or highway without permanently affixing the label specified in Subsection C of this section.

E. The provisions of this section do not apply to a motor vehicle registered in this state in the name of a person, or the person's legal guardian, who has an affidavit signed by a physician or an optometrist licensed to practice in this state that states that the person has a physical condition that makes it necessary to equip the motor vehicle with sun screening material that is in violation of this section. The affidavit shall be in the possession of the person with such a physical condition, or the person's legal guardian, at all times while being transported in the motor vehicle.

F. The light transmission requirement of this section does not apply to windows behind the driver on truck tractors, buses, recreational vehicles, multipurpose passenger vehicles or motor homes. The provisions of this section shall not apply to motor vehicle glazing that complies with federal motor vehicle standards.

G. The provisions of this section do not apply to motor vehicles that have sun screening material on the windshield or any window prior to July 1, 1997.

H. As used in this section:

(1) "light transmission" means the ratio of the amount of total light that passes through a product or material, expressed in percentages, to the amount of the total light falling on the product or material;

(2) "manufacturer" means any person engaged in the manufacturing or assembling of sun screening products or materials designed to be used in conjunction with motor vehicle glazing materials for the purpose of reducing the effects of the sun;

(3) "nonreflective" means designed to absorb light rather than to reflect it; and

(4) "sun screening material" means any film material, substance, device or product that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.

I. A person who violates a provision of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 34 Laws 2018**

SECTION 34. Section 66-3-901 NMSA 1978 (being Laws 1978, Chapter 35, Section 194, as amended) is amended to read:

"66-3-901. VEHICLES WITHOUT REQUIRED EQUIPMENT OR IN UNSAFE CONDITION.--

A. A person shall not drive or move on any highway any motor vehicle, trailer, semitrailer or pole trailer or any combination thereof unless the equipment upon every vehicle is in good working order and adjustment as required in the Motor Vehicle Code and the vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the highway.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

### **Chapter 74 Section 35 Laws 2018**

SECTION 35. Section 66-5-16 NMSA 1978 (being Laws 1978, Chapter 35, Section 238, as amended) is amended to read:

"66-5-16. LICENSE TO BE CARRIED AND EXHIBITED ON DEMAND.--Every licensee shall have the licensee's driver's license in the licensee's immediate possession at all times when operating a motor vehicle and shall display the license upon demand of a magistrate, a peace officer or a field deputy or inspector of the division. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor; however, a person charged with violating this section shall not be convicted if the person produces in court a driver's license issued to the person and valid at the time of the person's citation."

### **Chapter 74 Section 36 Laws 2018**

SECTION 36. Section 66-5-22 NMSA 1978 (being Laws 1978, Chapter 35, Section 244, as amended) is amended to read:

"66-5-22. NOTICE OF CHANGE OF ADDRESS OR NAME.--

A. Whenever a person, after applying for or receiving a driver's license, moves from the address named in the application or in the issued license or when the name of a licensee is changed by marriage or otherwise, the person shall, within ten days, notify the division of the new address in writing or by electronic media pursuant to department regulations. In the event of a change of name, the license shall be delivered by the licensee to the division and the change of name be accomplished on the license itself. The division may require such evidence as it deems satisfactory regarding the change of name.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

### **Chapter 74 Section 37 Laws 2018**

[SECTION 37. 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 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; or~~

~~(10) has failed to comply with the terms of a citation issued in a foreign jurisdiction that is a party to the Nonresident Violator Compact and that has notified the division of the failure in accordance with the Nonresident Violator Compact.~~

~~B. If a person whose license was issued by a jurisdiction outside New Mexico that is a party to the Nonresident Violator Compact fails to comply with the terms of a citation issued in New Mexico, the division shall notify that other jurisdiction of the~~

~~failure and that jurisdiction shall initiate a license suspension action in accordance with the provisions of Article IV of the Nonresident Violator Compact.~~

~~C. 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."] *LINE-ITEM VETO*~~

## **Chapter 74 Section 38 Laws 2018**

SECTION 38. Section 66-5-33.1 NMSA 1978 (being Laws 1985, Chapter 47, Section 1, as amended) is amended to read:

"66-5-33.1. REINSTATEMENT OF DRIVER'S LICENSE OR REGISTRATION--IGNITION INTERLOCK--FEE.--

A. Whenever a driver's license or registration is suspended or revoked and an application has been made for its reinstatement, compliance with all appropriate provisions of the Motor Vehicle Code and the payment of a fee of twenty-five dollars (\$25.00) is a prerequisite to the reinstatement of any license or registration.

B. If a driver's license was revoked for driving while under the influence of intoxicating liquor or drugs, for aggravated driving while under the influence of intoxicating liquor or drugs or pursuant to the Implied Consent Act, the following are required to reinstate the driver's license:

- (1) an additional fee of seventy-five dollars (\$75.00);
- (2) completion of the license revocation period;
- (3) satisfaction of any court-ordered ignition interlock requirements;
- (4) a minimum of six months of driving with an ignition interlock license with no attempts to circumvent, remove or tamper with the ignition interlock device;

(5) evidence that the ignition interlock device has not recorded two vehicle lockouts; and

(6) evidence of verified active usage as that phrase is defined by the bureau.

C. A person whose driver's license reinstatement is denied may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

D. The department may reinstate the driving privileges of an out-of-state resident without the requirement that the person obtain an ignition interlock license for a minimum of six months, if the following conditions are met:

(1) the license revocation period is completed;

(2) satisfactory proof is presented to the department that the person is no longer a resident of New Mexico; and

(3) the license reinstatement fee is paid.

E. Fees collected pursuant to Subsection B of this section are appropriated to the local governments road fund. The department shall maintain an accounting of the fees collected and shall report that amount upon request to the legislature.

F. For the purposes of this section, "vehicle lockout" means a driver has failed:

(1) a breath test six times within a period of three hours; or

(2) initial breath tests or random breath re-tests ten times within a period of thirty days."

## **Chapter 74 Section 39 Laws 2018**

SECTION 39. Section 66-5-38 NMSA 1978 (being Laws 1978, Chapter 35, Section 260) is amended to read:

"66-5-38. MAKING FALSE AFFIDAVIT PERJURY.--Except as otherwise provided in the Motor Vehicle Code, a person who makes a false affidavit or knowingly swears or affirms falsely to a matter or thing required by the terms of the Motor Vehicle Code to be sworn to or affirmed is guilty of perjury as provided in Section 30-25-1 NMSA 1978."

## **Chapter 74 Section 40 Laws 2018**



[SECTION 40. Section 66-5-39 NMSA 1978 (being Laws 1978, Chapter 35, Section 261, as amended) is amended to read:

~~"66-5-39. DRIVING WHILE LICENSE SUSPENDED--PENALTIES.--~~

~~A. A person who drives a motor vehicle on any public highway of this state at a time when the person's privilege to do so is suspended and who knows or should have known that the person's license was suspended is guilty of a misdemeanor and may be punished, notwithstanding the provisions of Section 31-19-1 NMSA 1978, by imprisonment for not more than ninety days or participation for an equivalent period of time in a certified alternative sentencing program, or by payment of a fine of not more than three hundred dollars (\$300), or both. When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court. Any municipal ordinance prohibiting driving with a suspended license shall provide penalties no less stringent than provided in this section.~~

~~B. In addition to any other penalties imposed pursuant to the provisions of this section, when a person is convicted pursuant to the provisions of this section or a municipal ordinance that prohibits driving on a suspended license, the motor vehicle the person was driving may be immobilized by an immobilization device for thirty days, unless immobilization of the motor vehicle poses an imminent danger to the health, safety or employment of the convicted person's immediate family or the family of the owner of the motor vehicle. The convicted person shall bear the cost of immobilizing the motor vehicle." ] *LINE-ITEM VETO*~~

## **Chapter 74 Section 41 Laws 2018**

SECTION 41. Section 66-7-106 NMSA 1978 (being Laws 1953, Chapter 139, Section 35, as amended) is amended to read:

~~"66-7-106. PEDESTRIAN CONTROL SIGNALS.--~~

~~A. Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk" are in place:~~

~~(1) "walk" indicates that pedestrians facing the signal may proceed across the roadway in the direction of the signal and shall be given the right of way by drivers of all vehicles; and~~

~~(2) "don't walk" indicates that no pedestrian shall start to cross the roadway in the directions of the signal, but any pedestrian who has partially completed the pedestrian's crossing on the walk signal shall proceed to a sidewalk or safety island while the don't walk signal is showing.~~

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 42 Laws 2018**

SECTION 42. Section 66-7-107 NMSA 1978 (being Laws 1978, Chapter 35, Section 387) is amended to read:

"66-7-107. FLASHING SIGNALS.--

A. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(1) flashing red (stop signal): when a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked or, if none, before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign; or

(2) flashing yellow (caution signal): when a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or pass such signal only with caution.

B. This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Section 66-7-341 NMSA 1978.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 43 Laws 2018**

SECTION 43. Section 66-7-108 NMSA 1978 (being Laws 1978, Chapter 35, Section 388) is amended to read:

"66-7-108. DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS.--

A. A person shall not place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device that purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal or that attempts to direct the movement of traffic or that hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal. A person shall not place or maintain nor shall a public authority permit upon a highway any traffic sign or signal bearing any commercial advertising.

B. Every such prohibited sign, signal, marking or device is declared to be a public nuisance, and the authority having jurisdiction over the highway is empowered to remove the sign, signal, marking or device or cause it to be removed without notice.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 44 Laws 2018**

SECTION 44. Section 66-7-334 NMSA 1978 (being Laws 1978, Chapter 35, Section 438, as amended) is amended to read:

"66-7-334. PEDESTRIANS' RIGHT OF WAY IN CROSSWALKS.--

A. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is in the crosswalk.

B. A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for the driver to yield.

C. Subsection A of this section shall not apply under the conditions stated in Subsection B of Section 66-7-335 NMSA 1978.

D. Whenever a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of another vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

E. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 45 Laws 2018**

SECTION 45. Section 66-7-335 NMSA 1978 (being Laws 1978, Chapter 35, Section 439) is amended to read:

"66-7-335. CROSSING AT OTHER THAN CROSSWALKS.--

A. A pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

B. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

C. Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 46 Laws 2018**

SECTION 46. Section 66-7-338 NMSA 1978 (being Laws 1953, Chapter 139, Section 91) is amended to read:

"66-7-338. PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK.--

A. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 47 Laws 2018**

SECTION 47. Section 66-7-339 NMSA 1978 (being Laws 1978, Chapter 35, Section 443) is amended to read:

"66-7-339. PEDESTRIANS ON ROADWAYS.--

A. Where sidewalks are provided, it is unlawful for a pedestrian to walk along and upon an adjacent roadway.

B. Where sidewalks are not provided, a pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic that may approach from the opposite direction.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 48 Laws 2018**

SECTION 48. 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 autocyte, 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 autocyte, 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. A 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.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 49 Laws 2018**

SECTION 49. Section 66-7-358 NMSA 1978 (being Laws 1978, Chapter 35, Section 462, as amended by Laws 1989, Chapter 318, Section 31 and also by Laws 1989, Chapter 321, Section 1) is amended to read:

"66-7-358. RESTRICTION ON USE OF VIDEO SCREENS IN MOTOR VEHICLES.--

A. It is unlawful to operate in this state any motor vehicle equipped with a video screen upon which images may be projected or shown if the screen is within the normal view of the driver of the motor vehicle unless the video screen is used solely as an aid to the driver in the operation of the vehicle.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor.

C. As used in this section, " video screen" does not include closed circuit monitors or computer terminal monitors used by law enforcement agencies in law enforcement motor vehicles."

## **Chapter 74 Section 50 Laws 2018**

SECTION 50. Section 66-7-359 NMSA 1978 (being Laws 1978, Chapter 35, Section 463, as amended) is amended to read:

"66-7-359. DRIVING ON MOUNTAIN HIGHWAYS.--

A. The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold the motor vehicle under control and as near the right-hand edge of the highway as reasonably possible.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 51 Laws 2018**

SECTION 51. Section 66-7-360 NMSA 1978 (being Laws 1953, Chapter 139, Section 117) is amended to read:

"66-7-360. COASTING PROHIBITED.--

A. The driver of any motor vehicle, when traveling upon a downgrade, shall not coast with the clutch disengaged.

B. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 52 Laws 2018**

SECTION 52. Section 66-7-363 NMSA 1978 (being Laws 1953, Chapter 139, Section 119.1, as amended) is amended to read:

"66-7-363. ANIMALS ON HIGHWAY.--

A. It is unlawful for any person, during the hours of darkness, to ride a horse or other animal upon the traveled portion of any highway that is normally used by motor vehicles.

B. It is unlawful for any person negligently to permit livestock to wander or graze upon any fenced highway at any time or, during the hours of darkness, to drive livestock along or upon any highway that is normally used by motor vehicles.

C. Owners of livestock ranging in pastures through which unfenced roads or highways pass shall not be liable for damages by reason of injury or damage to persons or property occasioned by collisions of vehicles using the roads and highways and livestock ranging in the pastures unless the owner of the livestock is guilty of specific negligence other than allowing livestock to range in the pasture.

D. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor."

## **Chapter 74 Section 53 Laws 2018**

SECTION 53. Section 66-8-116 NMSA 1978 (being Laws 1978, Chapter 35, Section 524, as amended) is amended to read:

"66-8-116. PENALTY ASSESSMENT MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

A. As used in the Motor Vehicle Code and the Boat Act, "penalty assessment misdemeanor" means violation of any of the following listed sections of the NMSA 1978 for which, except as provided in Subsections D through F of this section, the listed penalty assessment is established:

| COMMON NAME OF OFFENSE | SECTION VIOLATED | PENALTY |
|------------------------|------------------|---------|
|------------------------|------------------|---------|

|   |         |          |
|---|---------|----------|
| Improper display of<br>registration plate | 66-3-18 | \$ 25.00 |
|---|---------|----------|

|   |         |       |
|---|---------|-------|
| Failure to notify of<br>change of name or address | 66-3-23 | 25.00 |
|---|---------|-------|

|   |         |       |
|---|---------|-------|
| Lost or damaged registration,<br>plate or title | 66-3-24 | 25.00 |
|---|---------|-------|

|                                    |         |       |
|------------------------------------|---------|-------|
| Horseless carriage<br>registration | 66-3-27 | 25.00 |
|------------------------------------|---------|-------|

|                                       |          |       |
|---------------------------------------|----------|-------|
| Transfer of registration<br>and title | 66-3-103 | 25.00 |
|---------------------------------------|----------|-------|

|                                |          |       |
|--------------------------------|----------|-------|
| Expiration of dealer<br>plates | 66-3-403 | 25.00 |
|--------------------------------|----------|-------|

|                                |   |  |
|--------------------------------|---|--|
| Special registration<br>plates | 66-3-409, 66-3-412.1,<br>66-3-413, 66-3-415,<br>66-3-417, 66-3-419, |  |
|--------------------------------|---|--|

66-3-421, 66-3-422,  
66-3-424.4, 66-3-424.5  
66-3-424.7, 66-3-424.9  
66-3-424.13, 66-3-424.16  
and 66-3-424.28 75.00

Bicycle laws 66-3-701

through

66-3-707 50.00

No license display 66-5-16 25.00

Failure to change

address or name on

license 66-5-22 25.00

Permitting unauthorized

minor to drive 66-5-40 50.00

Permitting unauthorized

person to drive 66-5-41 25.00

Failure to obey sign 66-7-104 25.00

Failure to obey signal 66-7-105 25.00

Pedestrian signs and

signals 66-7-106

through

66-7-108 25.00

Speeding 66-7-301



(1) up to and including  
ten miles an hour  
over the speed limit        25.00

(2) from eleven up to  
and including fifteen  
miles an hour  
over the speed limit        30.00

(3) from sixteen up to  
and including twenty  
miles an hour over the  
speed limit                65.00

(4) from twenty-one up to  
and including twenty-five  
miles an hour  
over the speed limit        100.00

(5) from twenty-six up to  
and including thirty  
miles an hour over the  
speed limit                125.00

(6) from thirty-one up to  
and including thirty-five  
miles an hour over the  
speed limit                150.00

(7) more than thirty-five

miles an hour over the

speed limit            200.00

Unfastened safety belt    66-7-372    25.00

Child not in restraint device

or seat belt    66-7-369    25.00

Minimum speed    66-7-305    25.00

Speeding    66-7-306    25.00

Improper starting    66-7-324    25.00

Improper backing    66-7-354    25.00

Improper lane    66-7-308    25.00

Improper lane    66-7-313    25.00

Improper lane    66-7-316    25.00

Improper lane    66-7-317    25.00

Improper lane    66-7-319    25.00

Improper passing    66-7-309 through 66-7-312 25.00

Improper passing    66-7-315    25.00

Controlled access

violation    66-7-320    25.00

Controlled access

violation    66-7-321    25.00

Improper turning    66-7-322    25.00

Improper turning    66-7-323    25.00

|                        |                           |        |
|------------------------|---------------------------|--------|
| Improper turning       | 66-7-325                  | 25.00  |
| Following too closely  | 66-7-318                  | 25.00  |
| Failure to yield       | 66-7-328 through 66-7-331 | 25.00  |
| Failure to yield       | 66-7-332                  | 50.00  |
| Failure to yield       | 66-7-332.1                | 25.00  |
| Pedestrian violation   | 66-7-333                  |        |
| through                |                           |        |
|                        | 66-7-340                  | 25.00  |
| Failure to stop        | 66-7-342 and 66-7-344     |        |
| through                | 66-7-346                  | 25.00  |
| Railroad-highway grade |                           |        |
| crossing violation     | 66-7-341 and 66-7-343     | 150.00 |
| Passing school bus     | 66-7-347                  | 100.00 |
| Failure to signal      | 66-7-325 through 66-7-327 | 25.00  |
| Riding on motorcycles  | 66-7-355                  | 100.00 |
| Video screens in       |                           |        |
| automobiles            | 66-7-358                  | 25.00  |
| Driving on mountain    |                           |        |
| highways               | 66-7-359                  | 25.00  |
| Coasting prohibited    | 66-7-360                  | 25.00  |
| Animals on highway at  |                           |        |
| night                  | 66-7-363                  | 50.00  |
| Failure to secure load | 66-7-407                  | 100.00 |

|   |   |        |
|---|---|--------|
| Operation without oversize-<br>overweight permit  | 66-7-413  | 50.00  |
| Transport of reducible<br>load with special<br>permit more than six miles<br>from a border crossing | 66-7-413  | 100.00 |
| Improper equipment  | 66-3-801 through<br>66-3-840 and 66-3-842<br>through 66-3-851 | 50.00  |
| Improper equipment  | 66-3-901  | 50.00  |
| Improper emergency<br>signal  | 66-3-853 through 66-3-857                                     | 25.00  |
| Minor on motorcycle<br>without helmet   | 66-7-356  | 300.00 |
| Operation interference  | 66-7-357  | 50.00  |
| Littering   | 66-7-364  | 300.00 |
| Improper parking  | 66-7-349 through 66-7-352<br>and 66-7-353                     | 25.00  |
| Improper parking  | 66-3-852  | 25.00  |
| Riding in or towing<br>occupied house trailer   | 66-7-366  | 25.00  |
| Improper opening of doors   | 66-7-367  | 25.00  |
| No slow-moving vehicle  |   |        |

emblem or flashing

amber light 66-3-887 25.00

~~[Failure to appear 66-8-126 50.00]~~

*LINE-ITEM VETO*

Open container-first

violation 66-8-138 25.00

Texting while driving-

(1) first violation 66-7-374 25.00

(2) second and subsequent

violation 50.00

Using a handheld mobile

communication device

while driving a

commercial motor vehicle 66-7-375

(1) first violation 25.00

(2) second and subsequent

violation 50.00.

B. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

C. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.

D. The penalty assessment for speeding in violation of Paragraph (5) of Subsection A of Section 66-7-301 NMSA 1978 is twice the penalty assessment

established in Subsection A of this section for the equivalent miles per hour over the speed limit.

E. Upon a second conviction for operation without a permit for excessive size or weight pursuant to Section 66-7-413 NMSA 1978, the penalty assessment shall be two hundred fifty dollars (\$250). Upon a third or subsequent conviction, the penalty assessment shall be five hundred dollars (\$500).

F. Upon a second conviction for transport of a reducible load with a permit for excessive size or weight pursuant to Subsection N of Section 66-7-413 NMSA 1978 more than six miles from a port-of-entry facility on the border with Mexico, the penalty assessment shall be five hundred dollars (\$500). Upon a third or subsequent conviction, the penalty assessment shall be one thousand dollars (\$1,000)."

## **Chapter 74 Section 54 Laws 2018**

~~[SECTION 54. Section 66-8-126 NMSA 1978 (being Laws 1978, Chapter 35, Section 534) is amended to read:~~

~~"66-8-126. FAILURE TO OBEY NOTICE TO APPEAR.--~~

~~A. It is a penalty assessment misdemeanor for a person to violate that person's written promise to appear in court given to an officer upon issuance of a uniform traffic citation regardless of the disposition of the charge for which the citation was issued.~~

~~B. A written promise to appear in court may be complied with by appearance of counsel.]" LINE-ITEM VETO~~

## **Chapter 74 Section 55 Laws 2018**

SECTION 55. Section 66-12-23 NMSA 1978 (being Laws 1963, Chapter 45, Section 9, as amended) is amended to read:

"66-12-23. PENALTIES.--

A. Except for penalty provisions provided in Subsections B through M of this section, a person who violates a provision of the Boat Act or a rule of the division promulgated pursuant to that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

B. As used in Chapter 66, Article 12 NMSA 1978, "penalty assessment misdemeanor" means a violation of Section 66-12-6.5, 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or a rule of the division promulgated pursuant to those sections.

C. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person or disappearance of a person.

D. Whenever a person is arrested for violation of a penalty assessment misdemeanor, the arresting officer shall advise the person of the option either to accept the penalty assessment and pay it to the court or to appear in court. The arresting officer, using a uniform non-traffic citation, shall complete the information section, prepare the penalty assessment and prepare a notice to appear in court specifying the time and place to appear. The arresting officer shall have the person sign the citation as a promise either to pay the penalty assessment as prescribed or to appear in court as specified, give a copy of the citation to the person and release the person from custody. An officer shall not accept custody of payment of any penalty assessment.

E. The arresting officer may issue a warning notice, but shall fill in the information section of the citation and give a copy to the arrested person after requiring a signature on the warning notice as an acknowledgment of receipt. No warning notice issued under this section shall be used as evidence of conviction for purposes of Subsection M of this section.

F. In order to secure release, the arrested person must give a written promise to appear in court or to pay the penalty assessment prescribed or to acknowledge receipt of a warning notice.

G. The magistrate court or metropolitan court in the county where the alleged violation occurred has jurisdiction for any case arising from a penalty assessment misdemeanor.

H. A penalty assessment citation issued by a law enforcement officer shall be submitted to the appropriate magistrate or metropolitan court within three business days of issuance. If the citation is not submitted within three business days, it may be dismissed with prejudice.

I. It is a misdemeanor for any person to violate a written promise to pay the penalty assessment or to appear in court given to an officer upon issuance of a citation regardless of the disposition of the charge for which the citation was issued.

J. A citation with a written promise to appear in court or to pay the penalty assessment is a summons. If a person fails to appear or to pay the penalty assessment by the appearance date, a warrant for failure to appear may be issued.

K. A written promise to appear in court may be complied with by appearance of counsel.

L. When an alleged violator of a penalty assessment misdemeanor elects to appear in court rather than to pay the penalty assessment to the court, no fine

imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor.

M. The penalty assessment for a first penalty assessment misdemeanor is thirty dollars (\$30.00). This penalty assessment is in addition to any magistrate or metropolitan court costs as provided in Subsection B of Section 35-6-4 NMSA 1978. Upon a second conviction or acceptance of a notice of penalty assessment for a penalty assessment misdemeanor, the penalty assessment shall be fifty dollars (\$50.00). Upon a third or subsequent conviction or acceptance of a notice of penalty assessment, the penalty assessment shall be one hundred fifty dollars (\$150)."

## **Chapter 74 Section 56 Laws 2018**

### SECTION 56. REPEAL.--

A. Sections 30-8-12, 30-8-13 and 66-3-424.2 NMSA 1978 (being Laws 1963, Chapter 303, Sections 8-9 and 8-10 and Laws 2003, Chapter 174, Section 2, as amended) are repealed.

B. Laws 1989, Chapter 318, Section 31 is repealed.

## **Chapter 74 Section 57 Laws 2018**

SECTION 57. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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HJC/House Bill 19, 215, 217, 266 & 271, aa, partial veto

Approved March 7, 2018

# **LAWS 2018, CHAPTER 75**

## AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING AUTO RECYCLERS TO ELECTRONICALLY REPORT ALL VEHICLE PURCHASES TO THE TAXATION AND REVENUE DEPARTMENT; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO MAINTAIN AND MAKE AVAILABLE CERTAIN INFORMATION.

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

## **Chapter 75 Section 1 Laws 2018**



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

"AUTO RECYCLERS--NOTIFICATION OF PURCHASE.--

A. Prior to taking actual possession of a vehicle that an auto recycler has purchased, the auto recycler shall verify with the department if the vehicle has been reported stolen by checking an electronic system maintained by the department. The auto recycler shall include the seller's name, address, contact information and unique auto recycling license number of the purchaser, unless the purchaser is not a licensed auto recycler, in which case the auto recycler shall include the unique number of the purchaser's government-issued identification document.

B. Within two business days following the date the vehicle purchase transaction is completed, the auto recycler shall report the purchase to the department in an electronic format.

C. The reporting requirements pursuant to Subsection B of this section shall include:

(1) the name, address and contact information of the seller and the purchaser;

(2) the unique auto recycling license number of the seller, unless the seller is not a licensed auto recycler, in which case the unique number of the seller's government-issued identification document;

(3) the unique auto recycling license number of the purchaser, unless the purchaser is not a licensed auto recycler, in which case the unique number of the purchaser's government-issued identification document;

(4) the make, model, year, vehicle identification number and, if available, current odometer reading of the vehicle;

(5) the dates of the transfer of ownership of the vehicle;

(6) a statement specifying if the vehicle was, or will be, crushed, disposed of or used for other purposes; and

(7) a statement specifying if the vehicle is intended for export outside of the United States.

D. The department shall maintain and make available to auto recyclers an electronic system that allows auto recyclers to verify, prior to taking actual possession of a vehicle that an auto recycler has purchased, that the vehicle has not been reported stolen. If the electronic system shows that the vehicle was reported stolen, the auto recycler shall not complete the transaction and shall notify a law enforcement agency of

the current location of the vehicle and identification information provided by the person attempting to transfer ownership of the vehicle. If the electronic system shows that the vehicle was not reported stolen, the auto recycler may proceed with the transaction and shall not be held criminally or civilly liable if the vehicle was stolen, unless the auto recycler had knowledge that the vehicle was stolen.

E. The department shall make information contained in the electronic system available, without charge and upon request, to any law enforcement agency or the department, when the person acting on behalf of the agency or department is acting within the course and scope of the agency's or department's duties. Except as authorized by this section, the department shall not release personally identifiable information received under this section.

F. This section shall not apply to sales at salvage pools."

## **Chapter 75 Section 2 Laws 2018**

SECTION 2. Section 66-2-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 9) is amended to read:

"66-2-5. DIRECTOR TO PRESCRIBE FORMS.--

A. The director shall prescribe and provide suitable forms of applications, certificates of title, evidences of registration, driver's licenses and all other forms requisite or deemed necessary to carry out the provisions of the Motor Vehicle Code and any other laws, the enforcement and administration of which are vested in the division.

B. The director shall make available to the public electronic versions of all forms requisite or deemed necessary to carry out the provisions of the Motor Vehicle Code and any other laws, the enforcement and administration of which are vested in the division."

## **Chapter 75 Section 3 Laws 2018**

SECTION 3. Section 66-3-119 NMSA 1978 (being Laws 1978, Chapter 35, Section 66) is amended to read:

"66-3-119. VEHICLE TO BE DISMANTLED.--In addition to any requirements pursuant to Section 1 of this 2018 act:

A. except as provided in Sections 66-3-115, 66-3-116 and 66-3-118 through 66-3-121 NMSA 1978, any person who sells, gives away, trades or disposes of any vehicle as scrap or to be dismantled or destroyed by any person required to be licensed under Section 66-4-1 NMSA 1978 shall assign the certificate of title of the vehicle to the recipient and shall deliver the certificate of title to the recipient. A licensed

dismantler receiving any registration plates shall either return them to the owner upon demand or destroy them within five days;

B. except as provided in Sections 66-3-115, 66-3-116 and 66-3-118 through 66-3-121 NMSA 1978, no person shall dismantle or destroy a vehicle unless the person possesses a certificate of title or other proof of ownership of the vehicle and completes and sends in the dismantler's notification form to the division and any law enforcement agency designated by the division for that purpose; and

C. any person licensed under Section 66-4-1 NMSA 1978 may take possession of an abandoned vehicle; provided that:

(1) the person obtains at the time of acquisition a written clearance form from a law enforcement agency mentioned in Section 66-3-121 NMSA 1978;

(2) within five days after acquisition of the abandoned vehicle, the person requests from the division an official form indicating the names and addresses of all lienholders and owners of record. If the abandoned vehicle has out-of-state license plates or the licensee has some other reason to believe that the abandoned vehicle is registered in a state other than New Mexico, the person shall request the same information from the appropriate agency of that state;

(3) within five days after receiving the names and addresses of all lienholders and owners of record, the person informs them by certified mail, return receipt requested, of the person's possession of the abandoned vehicle and of all charges, if any, against the abandoned vehicle and of the person's intent to dispose of the vehicle if no claim is made within thirty days after the delivery of the letter;

(4) in those cases where neither the division nor the appropriate state agency specified in this section is able to furnish the names of any lienholders or owners of record, the vehicle shall then be deemed as abandoned, and a licensed dismantler may dispose of the abandoned vehicle once the dismantler has properly completed a dismantler's notification form for the abandoned vehicle and has submitted the form to the division together with a copy of the correspondence with either the division or the state agency specified in this section indicating that there are no lienholders or owners of record;

(5) when a lienholder or owner of record is known and the required notice has been sent and the dismantler has waited the required thirty days and has not received a valid claim, the dismantler shall properly complete a dismantler's notification form for the abandoned vehicle and submit the form together with any correspondence with the division or appropriate state agency specified in this subsection indicating the names and addresses of lienholders and owners of record plus proof of notification together with an affidavit signed by the dismantler stating under oath or affirmation that the dismantler has complied with provisions of this section and the dismantler has not received during the thirty-day period following notification any valid claim against the

abandoned vehicle in question or, while a valid claim has been made, the dismantler has not received within sixty days following the notification payment for fees connected with towing and storage of the abandoned vehicle in question;

(6) any person who fails to give notice required in this subsection within the time limit specified shall forfeit all liens, interest and claims to the abandoned vehicle in question if claimed by an owner or lienholder;

(7) failure of an owner or lienholder to assert a claim or to pay all legal storage or towing fees, if any, within the specified period of time shall result in that person's forfeiture of liens, interest or claims to the abandoned vehicle; and

(8) upon complying with the conditions of this section and waiting the required period of time, the abandoned vehicle is the property of the dismantler for dismantling or salvage purposes, and the dismantler shall not be required to take further action under the lien laws of this state unless the abandoned vehicle is used for other than dismantling or salvage purposes, and any person licensed under Section 66-4-1 NMSA 1978 may dismantle or destroy the abandoned vehicle."

## **Chapter 75 Section 4 Laws 2018**

SECTION 4. Section 66-3-123 NMSA 1978 (being Laws 1978, Chapter 35, Section 70, as amended) is amended to read:

"66-3-123. REQUIREMENTS OF PURCHASER--FORMS--DISTRIBUTION.--In addition to any requirements pursuant to Section 1 of this 2018 act, purchasers licensed under the provisions of Section 66-4-1 NMSA 1978 shall, upon purchase of a vehicle to be dismantled, crushed or otherwise destroyed, submit copies of the dismantler's notification form as provided for in Section 66-3-124 NMSA 1978 as follows:

A. electronically to the department as required by Section 66-3-121 NMSA 1978, along with the actual title or proof of ownership required in the state in which the vehicle is registered or licensed;

B. one copy by certified mail within thirty days of acquisition to the local law enforcement agency designated by the department. The agency shall process the form through the files of stolen or embezzled vehicles within five days of receipt of the form;

C. one copy to be retained by the purchaser for as long as the vehicle remains in the purchaser's possession or until the vehicle is destroyed, but in no instance fewer than three years; and

D. one copy to be retained and provided to any subsequent purchaser of the vehicle. The purchaser shall retain the copy for as long as the vehicle remains in the purchaser's possession or until the vehicle is destroyed."

## **Chapter 75 Section 5 Laws 2018**

SECTION 5. Section 66-3-124 NMSA 1978 (being Laws 1978, Chapter 35, Section 71, as amended) is amended to read:

"66-3-124. DEPARTMENT TO PROVIDE FORMS.--In addition to any requirements pursuant to Section 1 of this 2018 act, the department shall issue a dismantler's notification form to be used by any persons licensed under the provisions of Section 66-4-1 NMSA 1978 for all vehicles purchased to be dismantled, crushed or otherwise destroyed. The form shall require such information as is determined by the department to be necessary."

## **Chapter 75 Section 6 Laws 2018**

SECTION 6. Section 66-3-125 NMSA 1978 (being Laws 1978, Chapter 35, Section 72, as amended) is amended to read:

"66-3-125. RESTRICTIONS UPON LICENSEES.--In addition to any requirements pursuant to Section 1 of this 2018 act, a person licensed under the provisions of Sections 66-4-1 through 66-4-7 and 66-4-9 NMSA 1978 may, no earlier than thirty days after sending the dismantler's notification form as required by Section 66-3-123 NMSA 1978, proceed with the business of shredding, compacting, crushing or otherwise disposing of a vehicle purchased in accordance with the provisions of Sections 66-4-1 through 66-4-7 and 66-4-9 NMSA 1978; provided, however, dismantling of the vehicle may proceed immediately upon the sending of the dismantler's notification form."

## **Chapter 75 Section 7 Laws 2018**

SECTION 7. Section 66-4-9 NMSA 1978 (being Laws 1978, Chapter 35, Section 222) is amended to read:

"66-4-9. PENALTY FOR DESTROYING OR DISMANTLING IN VIOLATION OF CERTAIN SECTIONS OF THE MOTOR VEHICLE CODE.--

A. Any person violating any provision of Sections 66-3-119, 66-3-121, 66-3-123 through 66-3-125, 66-4-1 through 66-4-7 and 66-4-9 NMSA 1978 or Section 1 of this 2018 act is guilty of a misdemeanor and shall be punished by a fine of three hundred dollars (\$300) or by imprisonment for not less than thirty days or both.

B. The penalty upon second conviction of such offense shall be that provided for a fourth degree felony."

## **Chapter 75 Section 8 Laws 2018**

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2019.

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House Bill 52, aa

Approved March 7, 2018

## **LAWS 2018, CHAPTER 76**

AN ACT

RELATING TO HIGHER EDUCATION; EXPANDING THE BENEFITS AND SCHOOL OPTIONS FOR RECIPIENTS OF THE FIRE FIGHTER AND PEACE OFFICER SURVIVORS SCHOLARSHIP.

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

### **Chapter 76 Section 1 Laws 2018**

SECTION 1. Section 21-21F-3 NMSA 1978 (being Laws 1986, Chapter 50, Section 3) is amended to read:

"21-21F-3. DEFINITIONS.--As used in the Fire Fighter and Peace Officer Survivors Scholarship Act:

- A. "board" or "department" means the higher education department;
- B. "cost of attendance" means the price of attendance, the publication of which is required by federal law, and includes tuition and fees, books and supplies, room and board, transportation and any additional costs for a program in which a student is enrolled;
- C. "eligible institution" means any public institution of higher education in any state in the United States;
- D. "fire fighter" means any member of a fire department that is part of or administered by the state or any political subdivision of the state;
- E. "peace officer" means any member of a police or sheriff's department that is part of or administered by the state or any political subdivision of the state and officers in the corrections department;
- F. "research institution" means the university of New Mexico, New Mexico state university or New Mexico institute of mining and technology; and

G. "survivor" means the spouse of the fire fighter or peace officer killed in the line of duty and any adopted or natural children twenty-one years of age or under at the time of the fire fighter's or peace officer's death."

## **Chapter 76 Section 2 Laws 2018**

SECTION 2. Section 21-21F-4 NMSA 1978 (being Laws 1986, Chapter 50, Section 4) is amended to read:

"21-21F-4. ELIGIBILITY.--

A. A survivor meeting entrance requirements shall be entitled to a scholarship to the eligible institution of the survivor's choice.

B. If the eligible institution is in New Mexico, the amount of the scholarship shall be equal to the amount of tuition, room and board charged by the institution attended. If the eligible institution is not in New Mexico, the amount of the scholarship shall not exceed the average cost of attendance at New Mexico research institutions.

C. The scholarship shall continue for such time as the recipient remains a student in good standing at the institution, but in no event shall any survivor receive a scholarship for more than six years."

## **Chapter 76 Section 3 Laws 2018**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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House Bill 55

Approved March 7, 2018

# **LAWS 2018, CHAPTER 77**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
ESTABLISHING BORDER CROSSING SPECIAL FUEL USER PERMITS FOR  
SPECIAL FUEL USERS MAKING LIMITED-DISTANCE TRIPS ACROSS THE NEW  
MEXICO-MEXICO BORDER; ADJUSTING THE TERMS APPLICABLE TO  
TEMPORARY SPECIAL FUEL USER PERMITS; PRESCRIBING PENALTIES.

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

## **Chapter 77 Section 1 Laws 2018**

SECTION 1. A new section of the Special Fuels Supplier Tax Act is enacted to read:

"BORDER CROSSING SPECIAL FUEL USER PERMIT.--

A. A special fuel user who operates a commercial motor carrier vehicle registered or titled in Mexico, who is engaged primarily in movement across the New Mexico-Mexico border and into or from an international border commercial zone and whose exclusive use of New Mexico highways is limited to an area within ten miles of the New Mexico-Mexico border may apply for, on a form approved by the department, a quarterly, semi-annual or annual border crossing special fuel user permit. The department shall issue the permit if it approves the application and upon payment of the fee for the permit.

B. The department shall establish by rule the amount, which shall not exceed the following, of fees for border crossing special fuel user permits:

- (1) for a quarterly permit, one hundred twenty-five dollars (\$125);
- (2) for a semi-annual permit, two hundred dollars (\$200); and
- (3) for an annual permit, three hundred fifty dollars (\$350).

C. The department may revoke, after notice and a hearing, the border crossing special fuel user permit of a special fuel user found to have violated the Special Fuels Supplier Tax Act.

D. As used in this section, "international border commercial zone" means that part of a commercial zone established by a law of the United States that extends into New Mexico."

## **Chapter 77 Section 2 Laws 2018**

SECTION 2. Section 7-16A-2.1 NMSA 1978 (being Laws 1997, Chapter 192, Section 6) is amended to read:

"7-16A-2.1. WHEN SPECIAL FUEL RECEIVED OR USED--WHO IS REQUIRED TO PAY TAX.--

A. A rack operator receives special fuel at the time and place when the rack operator first loads the special fuel at the refinery or pipeline terminal into tank cars, tank trucks, tank wagons or any other type of transportation equipment or when the rack operator places the special fuel into any tank or other container in this state from which sales or deliveries not involving transportation are made. A rack operator



who receives special fuel is required to pay the tax on the special fuel received, except as provided otherwise in Subsection B of this section. Special fuel is not received when it is shipped from one refinery or pipeline terminal to another refinery or pipeline terminal.

B. When the rack operator first loads special fuel at the refinery or pipeline terminal into tank cars, tank trucks, tank wagons or any other type of transportation equipment for the account of another person who is registered with the department as a supplier and is taxable under the Special Fuels Supplier Tax Act, that person receives the special fuel and is required to pay the tax.

C. Special fuel imported into New Mexico by any means other than in the supply tank of a motor vehicle or by pipeline is received at the time and place it is imported into this state. The person who owns the special fuel at the time of importation receives the special fuel and is required to pay the tax.

D. If special fuel is received within the exterior boundaries of an Indian reservation or pueblo grant and the person required to pay the tax is immune from state taxation, the special fuel is also received when the special fuel is transported off the reservation or pueblo grant by any means other than in the fuel supply tank of a motor vehicle or by pipeline. Any person who owns special fuel after the special fuel is transported off the reservation or pueblo grant receives the special fuel and is the person required to pay the tax, unless the tax has been paid by a previous owner.

E. Except as provided in Subsection F of this section, special fuel is used in New Mexico when it is put into the supply tank of any motor vehicle registered, owned or operated by a special fuel user, consumed by a special fuel user in the propulsion of a motor vehicle on the highways of this state or any activity ancillary to that propulsion, or imported into the state in the fuel supply tank of any motor vehicle for the propulsion of the motor vehicle on New Mexico highways.

F. To the extent that a special fuel user whose use of New Mexico highways is limited to that for which the special fuel user holds a valid border crossing special fuel user permit, as provided for in Section 1 of this 2018 act, the special fuel user does not use special fuel in this state."

## **Chapter 77 Section 3 Laws 2018**

SECTION 3. Section 7-16A-11 NMSA 1978 (being Laws 1992, Chapter 51, Section 11, as amended) is amended to read:

"7-16A-11. TAX RETURNS--PAYMENT OF TAX--SPECIAL FUEL USERS--EXCEPTION.--

A. Except as otherwise provided in this section, a special fuel user shall file a special fuel excise tax return in form and content as prescribed by the secretary to

conform to the due date for the special fuel excise tax return required by an interstate agreement to which the state is a party.

B. A special fuel user may elect to file and pay the special fuel excise tax annually by conforming to the annual filing requirements of an international fuel tax agreement to which the state is a party.

C. A special fuel user shall file a return in accordance with the conditions and terms of the international fuel tax agreement to which the state is a party.

D. To the extent that a special fuel user whose use of New Mexico highways is limited to that for which the special fuel user holds a valid border crossing special fuel user permit, as provided for in Section 1 of this 2018 act, the special fuel user is exempt from the requirements of this section."

## **Chapter 77 Section 4 Laws 2018**

SECTION 4. Section 7-16A-19 NMSA 1978 (being Laws 1992, Chapter 51, Section 19, as amended) is amended to read:

### **"7-16A-19. SPECIAL FUEL USER PERMITS--VIOLATION.--**

A. A special fuel user whose vehicle is not registered with the department shall acquire from the department, before operating the vehicle on New Mexico highways:

(1) a temporary special fuel user permit valid for one calendar day only or for one entry into and one exit out of New Mexico; or

(2) a border crossing special fuel user permit, as provided for in Section 1 of this 2018 act.

B. A special fuel user applying for a temporary special fuel user permit shall apply for the permit on a form approved by the department.

C. The fee for a temporary special fuel user permit is five dollars (\$5.00) for each motor vehicle.

D. It is a violation of the Special Fuels Supplier Tax Act for a person to act as a temporary special fuel user without possessing a valid temporary special fuel user permit issued by the department.

E. It is a violation of the Special Fuels Supplier Tax Act for a person holding a valid border crossing special fuel user permit to travel in the motor carrier vehicle for which the permit was issued on New Mexico highways outside the area in which the permit authorizes travel, unless the person may otherwise under law engage

in that travel. In addition to any other penalty that may apply, a person who violates this provision is subject to a fine of three hundred dollars (\$300)."

## **Chapter 77 Section 5 Laws 2018**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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HFL/HRC/House Bill 329

Approved March 7, 2018

## **LAWS 2018, CHAPTER 78**

AN ACT

RELATING TO COUNTIES; ADJUSTING THE SALARY CAPS APPLICABLE TO ELECTED COUNTY OFFICIALS; ELIMINATING THE CLASS "C" COUNTY CLASSIFICATION; REPEALING SECTION 4-44-6 NMSA 1978 (BEING LAWS 1957, CHAPTER 196, SECTION 4, AS AMENDED).

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

## **Chapter 78 Section 1 Laws 2018**

SECTION 1. Section 4-44-1 NMSA 1978 (being Laws 1957, Chapter 196, Section 1, as amended) is amended to read:

"4-44-1. CLASSIFICATION FOR SALARY PURPOSES.--

A. For the purpose of fixing salaries of county officers, the several counties of the state, except "H" class counties, are classified as follows:

(1) those having a final, full assessed valuation of over seventy-five million dollars (\$75,000,000) and a population of one hundred thousand persons or more as determined by the most current annual population data or estimate available from the United States census bureau, as class "A" counties; and

(2) those having a final, full assessed valuation of over seventy-five million dollars (\$75,000,000) and a population of less than one hundred thousand persons as determined by the most current annual population data or estimate available from the United States census bureau, as class "B" counties.

B. The assessed valuation for each year is the full valuation as finally fixed for that year."

## **Chapter 78 Section 2 Laws 2018**

SECTION 2. Section 4-44-4 NMSA 1978 (being Laws 1957, Chapter 196, Section 2, as amended) is amended to read:

"4-44-4. CLASS A COUNTIES--SALARIES.--The annual salaries of elected officers of a class A county shall not exceed, for:

A. county commissioners, thirty-nine thousand one hundred six dollars (\$39,106) each;

B. treasurer, eighty-six thousand six hundred twenty-six dollars (\$86,626);

C. assessor, eighty-six thousand six hundred twenty-six dollars (\$86,626);

D. sheriff, ninety thousand three hundred thirty-eight dollars (\$90,338);

E. county clerk, eighty-six thousand six hundred twenty-six dollars (\$86,626); and

F. probate judge, thirty-eight thousand one hundred fourteen dollars (\$38,114)."

## **Chapter 78 Section 3 Laws 2018**

SECTION 3. Section 4-44-4.1 NMSA 1978 (being Laws 1986, Chapter 67, Section 2, as amended) is amended to read:

"4-44-4.1. CLASS B COUNTIES--HIGH VALUATION--SALARIES.--The annual salaries of elected officers of a class B county with an assessed valuation of over three hundred million dollars (\$300,000,000) shall not exceed, for:

A. county commissioners, thirty thousand one hundred ninety-six dollars (\$30,196) each;

B. treasurer, seventy-five thousand seven hundred thirty-three dollars (\$75,733);

C. assessor, seventy-five thousand seven hundred thirty-three dollars (\$75,733);

D. sheriff, seventy-eight thousand nine hundred fifty-two dollars (\$78,952);

E. county clerk, seventy-five thousand seven hundred thirty-three dollars (\$75,733); and

F. probate judge, twenty-six thousand four hundred eighty-two dollars (\$26,482)."

## **Chapter 78 Section 4 Laws 2018**

SECTION 4. Section 4-44-5 NMSA 1978 (being Laws 1957, Chapter 196, Section 3, as amended) is amended to read:

"4-44-5. CLASS B COUNTIES--INTERMEDIATE VALUATION--SALARIES.--The annual salaries of elected officers of a class B county with an assessed valuation of over seventy-five million dollars (\$75,000,000) but under three hundred million dollars (\$300,000,000) shall not exceed, for:

A. county commissioners, twenty-one thousand five hundred thirty-four dollars (\$21,534) each;

B. treasurer, sixty-four thousand eight hundred forty-four dollars (\$64,844);

C. assessor, sixty-four thousand eight hundred forty-four dollars (\$64,844);

D. sheriff, sixty-seven thousand eight hundred fourteen dollars (\$67,814);

E. county clerk, sixty-four thousand eight hundred forty-four dollars (\$64,844); and

F. probate judge, fifteen thousand ninety-eight dollars (\$15,098)."

## **Chapter 78 Section 5 Laws 2018**

SECTION 5. Section 4-44-12.3 NMSA 1978 (being Laws 1991, Chapter 91, Section 1, as amended) is amended to read:

"4-44-12.3. LEGISLATIVE INTENT--UNIFORM SALARY CHANGES.--

A. The intent of the legislature when increasing the maximum salaries of elected county officials is to provide for equitable salary increases.

B. The majority of a board of county commissioners may provide for salary increases for elected county officials; however, a salary increase shall not take effect until the first day of the term of an elected county official who takes office after the date that salary increase is approved."

## Chapter 78 Section 6 Laws 2018

SECTION 6. Section 4-44-14 NMSA 1978 (being Laws 1955, Chapter 4, Section 2, as amended) is amended to read:

"4-44-14. H CLASS COUNTIES--SALARIES.--

A. The annual salaries of elected or appointed part-time officers of an H class county shall not exceed, for:

(1) county commissioners, fifteen thousand eight hundred forty-four dollars (\$15,844) each;

(2) treasurer, seven thousand nine hundred twenty-two dollars (\$7,922);

(3) assessor, seven thousand nine hundred twenty-two dollars (\$7,922);

(4) sheriff, seven thousand nine hundred twenty-two dollars (\$7,922);

(5) county clerk, seven thousand nine hundred twenty-two dollars (\$7,922); and

(6) probate judge, four thousand six hundred thirty-six dollars (\$4,636).

B. The annual salaries of elected or appointed full-time officers of an H class county shall not exceed, for:

(1) treasurer, seventy-five thousand seven hundred thirty-three dollars (\$75,733);

(2) assessor, seventy-five thousand seven hundred thirty-three dollars (\$75,733);

(3) sheriff, seventy-eight thousand nine hundred fifty-two dollars (\$78,952); and

(4) county clerk, seventy-five thousand seven hundred thirty-three dollars (\$75,733).

C. The governing body of an H class county shall designate whether each of the offices of treasurer, assessor, sheriff and county clerk is part time or full time; however, a change in that designation shall not take effect until the first day of the term

of an elected county official who takes office after the change in designation is approved.

## **Chapter 78 Section 7 Laws 2018**

SECTION 7. REPEAL.--Section 4-44-6 NMSA 1978 (being Laws 1957, Chapter 196, Section 4, as amended) is repealed.

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House Bill 69

Approved March 7, 2018

## **LAWS 2018, CHAPTER 79**

AN ACT

RELATING TO ELECTIONS; ENACTING THE LOCAL ELECTION ACT; PROVIDING FOR A SINGLE ELECTION DAY AND UNIFORM PROCESSES FOR CERTAIN LOCAL GOVERNMENT ELECTIONS; PROVIDING THAT CERTAIN BALLOT MEASURE ELECTIONS THAT ARE HELD AT TIMES OTHER THAN WITH REGULAR LOCAL ELECTIONS ONLY BE CONDUCTED BY MAILED BALLOT; REQUIRING SPECIAL STATEWIDE BALLOT QUESTION ELECTIONS TO BE CONDUCTED BY MAILED BALLOT; PROHIBITING ADVISORY QUESTIONS ON THE BALLOT; UPDATING CIRCUMSTANCES CAUSING A VACANCY IN LOCAL OFFICE; NAMING CHAPTER 1, ARTICLE 24 NMSA 1978 THE "SPECIAL ELECTION ACT"; CHANGING THE LIMITS ON SOIL AND WATER CONSERVATION LEVIES; REPEALING THE SCHOOL ELECTION LAW, THE MAIL BALLOT ELECTION ACT, THE MUNICIPAL ELECTION CODE AND OTHER PROVISIONS OF LAW IN CONFLICT WITH THE LOCAL ELECTION ACT; MAKING CONFORMING AMENDMENTS TO OTHER SECTIONS OF LAW; MAKING AN APPROPRIATION.

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

## **Chapter 79 Section 1 Laws 2018**

SECTION 1. Section 1-1-19 NMSA 1978 (being Laws 1969, Chapter 240, Section 19, as amended) is amended to read:

"1-1-19. ELECTIONS COVERED BY CODE.--

A. The Election Code applies to the following:

(1) general elections;

- (2) primary elections;
- (3) special elections;
- (4) elections to fill vacancies in the office of United States representative;
- (5) local elections included in the Local Election Act; and
- (6) recall elections of county officers, school board members or applicable municipal officers.

B. To the extent procedures are incorporated or adopted by reference by separate laws governing such elections or to the extent procedures are not specified by such laws, certain provisions of the Election Code shall also apply to special district elections not covered by the Local Election Act."

## **Chapter 79 Section 2 Laws 2018**

SECTION 2. 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.

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 79 Section 3 Laws 2018**



SECTION 3. Section 1-3-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 51, as amended) is amended to read:

"1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--

A. In June or July of each odd-numbered year, the board of county commissioners shall by resolution:

(1) designate the polling place of each precinct that shall provide individuals with physical mobility limitations an unobstructed access to at least one voting machine;

(2) consolidate any precincts for the next succeeding primary and general elections pursuant to Section 1-3-4 NMSA 1978;

(3) designate any mail ballot election precincts for the next succeeding primary and general elections;

(4) consolidate precincts for the regular local elections following the next succeeding general election as provided in Section 1-3-4 NMSA 1978;

(5) designate any mail ballot election precincts for the regular local election following the next succeeding general election;

(6) create additional precincts to meet the requirements of Section 1-3-1 NMSA 1978 or upon petition pursuant to Section 4-38-21 NMSA 1978;

(7) create additional polling places in existing precincts as necessary pursuant to Section 1-3-7.1 NMSA 1978; and

(8) divide any precincts as necessary to meet legal and constitutional requirements for redistricting.

B. Polling places, consolidated precincts and mail ballot election precinct designations established in the resolution adopted pursuant to Subsection A of this section for primary and general elections shall be the same used for any special election for the office of United States representative held in the two succeeding calendar years following adoption of the resolution.

C. The county clerk shall notify the secretary of state in writing of any proposed changes in precincts or the designation of polling places made by the board of county commissioners and shall furnish a copy of the map showing the current geographical boundaries, designation and word description of each new polling place and each new or changed precinct.

D. The secretary of state shall review all new or changed precinct maps submitted pursuant to this section for compliance under the Precinct Boundary Adjustment Act. Any necessary precinct boundary adjustments shall be made and submitted to the secretary of state no later than the first Monday in December of each odd-numbered year. Upon approval of the new or changed precincts by the secretary of state, the precincts and polling places as changed by the resolution of the boards of county commissioners and approved by the secretary of state shall be the official precincts and polling places for the next succeeding primary and general elections and the regular local election following the next succeeding general election."

## **Chapter 79 Section 4 Laws 2018**

SECTION 4. 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; and
- (2) local elections.

B. When precincts are consolidated for a primary and general election or a regular local 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:

- (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 in a local election shall be composed of no more than twenty precincts;
- (4) each consolidated precinct shall comply with the provisions of Section 1-3-7 NMSA 1978;
- (5) each consolidated precinct polling location shall have a broadband internet connection and real-time access to the statewide voter registration electronic management system;

(6) 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

(7) 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.

C. 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.

D. As a prerequisite to consolidation, the authorizing resolution must find that consolidation will make voting more convenient and accessible to voters of the

consolidated precinct and will not result in delays for voters in the voting process and that the consolidated precinct voting location will be centrally located within the consolidated precinct."

## **Chapter 79 Section 5 Laws 2018**

SECTION 5. Section 1-3-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 57, as amended) is amended to read:

### **"1-3-7. POLLING PLACES.--**

A. No less than one polling place shall be provided for each precinct that is not a mail ballot election precinct; provided that in a local election, a precinct that lies partly within and partly without a district may be located in a single polling place and use a single precinct board.

B. The board of county commissioners shall designate as the polling place or places, as the case may be, in each precinct, other than a mail ballot election precinct, the most convenient and suitable public building or public school building in the precinct that can be obtained.

C. If no public building or public school building is available, the board of county commissioners shall provide some other suitable place, which shall be the most convenient and appropriate place obtainable in the precinct, considering the purpose for which it is to be used pursuant to the Election Code.

D. If, in a precinct that is not a mail ballot election precinct or a consolidated precinct, there is no public building or public school building available in the precinct, and there is no other suitable place obtainable in the precinct, the board of county commissioners may designate as a polling place for the precinct the most convenient and suitable building or public school building nearest to that precinct that can be obtained. No polling place shall be designated outside the boundary of the precinct as provided in this subsection until such designated polling place is approved by written order of the district court of the county in which the precinct is located.

E. Upon application of the board of county commissioners, the governing board of any school district shall permit the use of any school building or a part thereof for registration purposes and the conduct of any election; provided that the building or the part used for the election complies with the standards set out in the federal Voting Accessibility for the Elderly and Handicapped Act.

F. Public schools may be closed for elections at the discretion of local school boards."

## **Chapter 79 Section 6 Laws 2018**

SECTION 6. Section 1-6-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 127) is amended to read:

"1-6-1. ABSENT VOTER ACT--SHORT TITLE.--Chapter 1, Article 6 NMSA 1978 may be cited as the "Absent Voter Act"."

### **Chapter 79 Section 7 Laws 2018**

SECTION 7. Section 1-6B-1 NMSA 1978 (being Laws 2015, Chapter 145, Section 25) is amended to read:

"1-6B-1. SHORT TITLE.--Chapter 1, Article 6B NMSA 1978 may be cited as the "Uniform Military and Overseas Voters Act"."

### **Chapter 79 Section 8 Laws 2018**

SECTION 8. Section 1-6B-2 NMSA 1978 (being Laws 2015, Chapter 145, Section 26) is amended to read:

"1-6B-2. DEFINITIONS.--As used in the Uniform Military and Overseas Voters Act:

A. "appropriate clerk" means the county clerk of the county in which the federal qualified elector is eligible to vote;

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 79 Section 9 Laws 2018**

SECTION 9. Section 1-6B-3 NMSA 1978 (being Laws 2015, Chapter 145, Section 27) is amended to read:

"1-6B-3. ELECTIONS COVERED--FORM OF BALLOT AND BALLOT MATERIALS--BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.--

A. The procedures in the Uniform Military and Overseas Voters Act apply to elections conducted pursuant to the Election Code.

B. A federal qualified elector may vote for all candidates and on all 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 79 Section 10 Laws 2018**

SECTION 10. Section 1-6B-4 NMSA 1978 (being Laws 2015, Chapter 145, Section 28) is amended to read:

"1-6B-4. ROLE OF SECRETARY OF STATE--FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

A. The secretary of state shall make available to federal qualified electors information regarding voter registration procedures for federal qualified electors and procedures for casting military-overseas ballots.

B. The secretary of state shall establish an electronic transmission system through which a federal qualified elector may apply for and receive voter registration materials, military-overseas ballots and other information pursuant to the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that the electronic transmission system is capable of accepting a federal postcard application, any other approved electronic registration application and any other approved electronic military-overseas ballot application sent to a county clerk.

C. Official transmittal envelopes and official mailing envelopes for transmission of 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 79 Section 11 Laws 2018**

SECTION 11. Section 1-6B-6 NMSA 1978 (being Laws 2015, Chapter 145, Section 30) is amended to read:

"1-6B-6. METHODS OF APPLYING FOR MILITARY-OVERSEAS BALLOT--TIMELINESS--SCOPE OF APPLICATION FOR MILITARY-OVERSEAS BALLOT.--

A. A federal qualified elector who is currently registered to vote in this state may, by the deadline specified in the Absent Voter Act for receipt of absentee ballot applications, apply for a military-overseas ballot by:

(1) using an absentee ballot application pursuant to the Absent Voter Act;

(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 top-two runoff election necessary to conclude the election for which the application was submitted."

## **Chapter 79 Section 12 Laws 2018**

SECTION 12. Section 1-6B-7 NMSA 1978 (being Laws 2015, Chapter 145, Section 31) is amended to read:



**"1-6B-7. TRANSMISSION OF UNVOTED MILITARY-OVERSEAS BALLOTS TO FEDERAL QUALIFIED ELECTORS.--**

A. Not later than forty-five days before an election, even if the forty-fifth day before an election falls on a weekend or a holiday, the 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.

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 79 Section 13 Laws 2018**

SECTION 13. Section 1-12-71 NMSA 1978 (being Laws 1977, Chapter 222, Section 7, as amended) is amended to read:

"1-12-71. RESTRICTION ON LOCAL GOVERNMENT ELECTIONS.--No municipal, county or special district election or special local election shall be held within seventy days prior to or following any statewide election and no municipal top-two runoff election may be held within fifty days prior to 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 or regular local election ballot. As used in this section, "statewide election" means a primary, general or special statewide election or a regular local election as provided in the Local Election Act."

**Chapter 79 Section 14 Laws 2018**

SECTION 14. Section 1-14-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 343, as amended) is amended to read:

"1-14-14. RECOUNTS--RECHECKS--APPLICATION.--

A. Whenever any candidate believes that any error or fraud has been committed by any precinct board in counting or tallying the ballots, in the verification of the votes cast on the voting machines or in the certifying of the results of any election whereby the results of the election in the precinct have not been correctly determined, declared or certified, the candidate, within six days after completion of the canvass by the proper canvassing board, may have a recount of the ballots, or a recheck of the votes shown on the voting machines, that were cast in the precinct.

B. In the case of any office for which the state canvassing board issues a certificate of nomination or election, application for recount or recheck shall be filed with the secretary of state.

C. In the case of any office for which the county canvassing board or secretary of state issues a certificate of nomination or election, application for recount or recheck shall be filed with the district judge for the county in which the applicant resides."

## **Chapter 79 Section 15 Laws 2018**

SECTION 15. Section 1-16-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 380, as amended) is amended to read:

"1-16-8. OTHER QUESTIONS.--

A. The form for ballots on questions other than proposed constitutional amendments to be submitted to the voters of the entire state shall be prescribed by the secretary of state. The form for ballots on those questions not statewide in application to be submitted to the voters of a county or local government shall be furnished by the county clerk, and a copy of the resolution proposing the question shall be sent by the county clerk to the secretary of state not less than seventy days prior to the election. In each case, the ballots shall conform as nearly as practicable to the form required for ballots on proposed constitutional amendments.

B. In no case shall a nonbinding or merely advisory question be placed on the ballot for any election held pursuant to the Election Code."

## **Chapter 79 Section 16 Laws 2018**

SECTION 16. Section 1-22-1 NMSA 1978 (being Laws 1985, Chapter 168, Section 3) is repealed and a new Section 1-22-1 NMSA 1978 is enacted to read:

"1-22-1. SHORT TITLE.--Chapter 1, Article 22 NMSA 1978 may be cited as the "Local Election Act"."

## **Chapter 79 Section 17 Laws 2018**

SECTION 17. Section 1-22-2 NMSA 1978 (being Laws 1985, Chapter 168, Section 4, as amended) is repealed and a new Section 1-22-2 NMSA 1978 is enacted to read:

"1-22-2. DEFINITIONS.--As used in the Local Election Act:

A. "local election" means a local government election;

B. "local governing body" means a board, council or commission, as appropriate for a given local government;

C. "local government" means a school district, a special hospital district, a community college district, a technical and vocational institute district, a learning center district, an arroyo flood control district, a special zoning district, a soil and water conservation district, a water and sanitation district and a municipality, including a home rule municipality governed pursuant to Article 10, Section 6 of the constitution of New Mexico, a municipality operating pursuant to a territorial charter or special charter and, beginning July 1, 2022, a conservancy district governed pursuant to Chapter 73, Article 14 or 18 NMSA 1978 and a watershed district governed pursuant to the Watershed District Act;

D. "municipal officers" means the local governing body and any executive and judicial officers of a municipality; and

E. "proper filing officer" means the clerk of the county in which the candidate resides."

## **Chapter 79 Section 18 Laws 2018**

SECTION 18. Section 1-22-3 NMSA 1978 (being Laws 1985, Chapter 168, Section 5, as amended) is repealed and a new Section 1-22-3 NMSA 1978 is enacted to read:

"1-22-3. REGULAR LOCAL ELECTIONS--SPECIAL LOCAL ELECTIONS--BALLOT QUESTIONS--QUALIFICATIONS OF CANDIDATES.--

A. A regular local election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year.

B. A local election shall be held to elect qualified persons to membership on a local governing body and, where applicable, to municipal executive office and to municipal judicial office. No person shall become a candidate in a local election unless the person's record of voter registration shows that the person is a qualified elector of the state, physically resides in the district in which the person is a candidate and was

registered to vote in the district on the date the proclamation calling a local election is filed in the office of the secretary of state.

C. In addition to candidates in the election, a regular local election ballot may contain ballot questions proposed by the state, county or local government or as otherwise provided by law. An election on a ballot question held at any time other than the date for a regular local election shall be held with the general election, as provided by law, or municipal officer election if authorized by the governing body of the municipality; or shall be a special local election called, conducted and canvassed as provided in Chapter 1, Article 24 NMSA 1978.

D. Provisions in a territorial charter supplemental to the Local Election Act may be implemented pursuant to authorization by the secretary of state in the proclamation for the regular local election.

E. Except as otherwise provided in the Local Election Act, local elections shall be called, conducted and canvassed as provided in the Election Code."

## **Chapter 79 Section 19 Laws 2018**

SECTION 19. Section 1-22-4 NMSA 1978 (being Laws 1985, Chapter 168, Section 6, as amended) is repealed and a new Section 1-22-4 NMSA 1978 is enacted to read:

"1-22-4. REGULAR LOCAL ELECTION--MUNICIPAL OFFICER ELECTION--  
PROCLAMATION--PUBLICATION.--

A. The secretary of state shall by resolution issue a public proclamation in Spanish and English calling a regular local election on the date prescribed by the Local Election Act. The proclamation shall be filed by the secretary of state in the office of the secretary of state ninety days preceding the date of the regular local election.

B. Between one hundred twenty and one hundred fifty days before the next local election, each local government shall notify the secretary of state of all local government positions that are to be filled at the next election for that local government.

C. The proclamation shall specify the:

- (1) date when the election will be held;
- (2) positions on each local governing body to be filled;
- (3) executive and judicial positions to be filled;
- (4) date on which declarations of candidacy are to be filed;

(5) date on which declarations of intent to be a write-in candidate are to be filed; and

(6) municipalities subject to a ranked-choice voting runoff election and those subject to a top-two runoff election, and the date of the top-two runoff election should one be necessary.

D. After receipt of the proclamation from the secretary of state, the county clerk shall post the entire proclamation on the county clerk's website and, not less than seventy-five days before the date of the election, shall publish portions of the proclamation relevant to the county at least once in a newspaper of general circulation within the county. The publication of the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended, and shall specify the:

(1) date when the election will be held;

(2) positions on each local governing body of a district situated in whole or in part in the county;

(3) elective executive and judicial positions of each local government situated in whole or in part in the county;

(4) date on which declarations of candidacy are to be filed;

(5) location of each polling place;

(6) location of each alternate voting location for early voting;

(7) hours each polling place and alternate voting location will be open; and

(8) date and time of the closing of the registration books by the county as required by law.

E. Whenever two or more members of a local governing body are to be elected at large for terms of the same length of time, the secretary of state shall numerically designate the positions on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, but only one member shall be elected for each position. Whenever two or more members of a local governing body are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall list the office with the shorter length of time first and shall designate each position with "for a term expiring \_\_\_\_".

## **Chapter 79 Section 20 Laws 2018**

SECTION 20. Section 1-22-7 NMSA 1978 (being Laws 1985, Chapter 168, Section 9, as amended) is repealed and a new Section 1-22-7 NMSA 1978 is enacted to read:

"1-22-7. DECLARATION OF CANDIDACY--FILING DATE--PENALTY.--

A. A candidate for a position that will be filled at a local election shall file a declaration of candidacy with the proper filing officer during the period commencing at 9:00 a.m. on the seventieth day before the date of the local election and ending at 5:00 p.m. on the same day.

B. A candidate shall file for only one position in the same local government but may file for a position in more than one local government during a filing period.

C. A declaration of candidacy shall not be amended after it has been filed with the proper filing officer.

D. 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 79 Section 21 Laws 2018**

SECTION 21. Section 1-22-8 NMSA 1978 (being Laws 1985, Chapter 168, Section 10, as amended) is repealed and a new Section 1-22-8 NMSA 1978 is enacted to read:

"1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF INTENT--FORM.--In making a declaration of candidacy, the candidate shall submit a sworn statement of intent in substantially the following form:

"DECLARATION OF CANDIDACY--STATEMENT OF INTENT

I, \_\_\_\_\_ (candidate's name on certificate of registration), being first duly sworn, say that I am a voter of the county of \_\_\_\_\_, State of New Mexico. I reside at

\_\_\_\_\_ and was registered to vote at that place on the date of the proclamation calling this election;

I reside within and am registered to vote in the area to be represented;

I desire to become a candidate for the office of \_\_\_\_\_ at the local 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.

\_\_\_\_\_  
(Signature of Declarant)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(Residence Address)

Subscribed and sworn to before me by \_\_\_\_\_ this \_\_\_\_\_ day of  
\_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

My commission expires:

\_\_\_\_\_ " " "

### **Chapter 79 Section 22 Laws 2018**

SECTION 22. A new section of the Local Election Act, Section 1-22-8.1 NMSA 1978, is enacted to read:

"1-22-8.1. WRITE-IN CANDIDATES.--

A. Write-in candidates shall be permitted in local elections.

B. A person may be a write-in candidate only if the person has the qualifications to be a candidate for the position for which the person is running.

C. A person desiring to be a write-in candidate for an office shall file with the proper filing officer a declaration of candidacy. The declaration shall be filed between 9:00 a.m. and 5:00 p.m. on the sixty-third day preceding the date of the election. The county clerk shall ensure that a declaration of candidacy filed pursuant to this section specifies that it is for a write-in candidate.

D. A write-in vote shall be counted and canvassed only if:

(1) the name written in is the name of a declared write-in candidate and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the declaration of candidacy and if misspellings of those combinations can be reasonably determined by a majority of the members of the precinct board to identify a declared write-in candidate; and

(2) the name is written on the proper line provided on the ballot for write-in votes for the office and position for which the candidate has declared intent and the voter has followed the directions for voting for the write-in candidate.

E. At the time of filing the declaration of candidacy, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Local Election Act except that the write-in candidate's name shall not be printed on the ballot nor posted in any polling place.

F. A write-in vote shall be cast by writing in the name. As used in this section, "write-in" does not include the imprinting of any name by rubber stamp or similar device or the use of a preprinted sticker or label.

G. No unopposed write-in candidate shall have an election certified unless the candidate receives at least the number of write-in votes equal to ten percent of the total number of ballots on which the office appears on the ballot that are cast in the local election, or one hundred."

## **Chapter 79 Section 23 Laws 2018**

SECTION 23. Section 1-22-9 NMSA 1978 (being Laws 1985, Chapter 168, Section 11) is repealed and a new Section 1-22-9 NMSA 1978 is enacted to read:

"1-22-9. WITHDRAWAL OF CANDIDATES.--A candidate seeking to withdraw from a local election shall withdraw no later than the sixty-third day before that election by filing a signed and notarized statement of withdrawal with the proper filing officer."

## **Chapter 79 Section 24 Laws 2018**

SECTION 24. Section 1-22-10 NMSA 1978 (being Laws 1985, Chapter 168, Section 12, as amended) is repealed and a new Section 1-22-10 NMSA 1978 is enacted to read:

"1-22-10. BALLOTS.--

A. The proper filing officer shall determine whether a candidate filing a declaration of candidacy is registered to vote within the local election district and, if required for the office being sought, whether the candidate's nominating petition for that



office has been filed with a number of signatures that is equal to or greater than the number required for that office. If the candidate is so qualified and no withdrawal of candidacy has been filed as provided in the Local Election Act, the proper filing officer shall place the candidate's name on the ballot for the position specified in the declaration of candidacy and notify each candidate in writing no later than 5:00 p.m. on the sixtieth day before the local election.

B. Ballots for the local election shall be prepared by the proper filing officer and printed in accordance with the provisions of Section 1-10-5 NMSA 1978. The printed ballot shall contain the name of each person who is a candidate and the position for which the person is a candidate. The ballot shall also contain all questions permitted by the board of county commissioners pursuant to Section 1-22-10.1 NMSA 1978 that are to be submitted to the voters as certified to the county clerk in each county in which the local government is situated by the local governing body and shall conform to the requirements of Section 1-16-8 NMSA 1978.

C. Paper ballots shall be printed in a form in substantial compliance with the provisions of Section 1-10-12 NMSA 1978 and in compliance with the provisions of the federal Voting Rights Act of 1965, as amended.

D. A local election shall be a nonpartisan election, and the names of all candidates shall be listed on the ballot without party or slate designation. The order in which the names of candidates are listed on the ballot shall be determined by the secretary of state either by lot or by randomization as provided by rule.

E. Space shall be provided on each ballot for a voter to write in the name of one candidate for each position to be filled when a declaration of candidacy by a write-in candidate has been filed."

## **Chapter 79 Section 25 Laws 2018**

SECTION 25. A new Section 1-22-10.1 NMSA 1978 is enacted to read:

"1-22-10.1. BALLOT ORDER.--

A. The Local Election Act ballot shall list offices in the following order, when applicable:

(1) municipal elections, with executive officers listed first, governing board members listed second and judicial officers listed third;

(2) school board elections;

(3) community college elections;

(4) special district elections listed in order by voting population of each special district, with the most populous listed first and the least populous listed last; and

(5) in the order prescribed by the secretary of state:

(a) county questions;

(b) local government questions; and

(c) other ballot questions authorized by law.

B. A board of county commissioners shall permit local government questions on the local election ballot; provided that there is sufficient space on a single page ballot to accommodate the questions using both sides of the page. If there is not sufficient room, then questions shall be included in the order received by the county clerk until space on the ballot is exhausted. For multicounty districts, exclusion from one county's ballot excludes that question from the local election ballot in all counties comprising the special district.

C. A local government question that would require a second ballot page shall be permitted if the local government requesting the inclusion of the question pays the additional costs of the second ballot page; provided that if more than one local government has a question included on the second ballot page, the local governments with questions on the second ballot page shall share the costs of providing the second ballot page."

## **Chapter 79 Section 26 Laws 2018**

SECTION 26. Section 1-22-11 NMSA 1978 (being Laws 1985, Chapter 168, Section 13, as amended) is repealed and a new Section 1-22-11 NMSA 1978 is enacted to read:

"1-22-11. PUBLICATION.--Each county clerk shall issue and publish the proclamation listing the name of each local government that has a candidate or question appearing on the ballot in that county; the name of each candidate for membership on each local governing body; the name of each candidate for executive or judicial office; each question to be submitted to the voters; and the names of the precinct board members for the election. The publication shall be made once each week for two successive weeks, with the last publication being made within twelve days but not later than five days before the date of the local election. The names of the candidates shall be published in the same order and for the same positions as will appear on the ballot. The publication shall be in a newspaper of general circulation in the county and shall conform to the provisions of the federal Voting Rights Act of 1965, as amended."

## **Chapter 79 Section 27 Laws 2018**

SECTION 27. Section 1-22-13 NMSA 1978 (being Laws 1985, Chapter 168, Section 15) is repealed and a new Section 1-22-13 NMSA 1978 is enacted to read:

"1-22-13. WATCHERS--OBSERVERS--CHALLENGERS.--

A. Upon written notice filed with the county clerk no later than seven days before the election, any group of three candidates in a local election may appoint watchers in a county who shall have the powers and be subject to the restrictions provided for watchers in the Election Code.

B. Election observers shall be allowed as otherwise provided by the Election Code.

C. Election challengers appointed by political parties shall not be permitted for elections held pursuant to the Local Election Act."

## **Chapter 79 Section 28 Laws 2018**

SECTION 28. Section 1-22-15 NMSA 1978 (being Laws 1985, Chapter 168, Section 17, as amended by Laws 1987, Chapter 249, Section 49 and also by Laws 1987, Chapter 338, Section 3) is repealed and a new Section 1-22-15 NMSA 1978 is enacted to read:

"1-22-15. CANVASSING BOARD--DUTIES.--

A. The canvassing board for the canvass of the results of a local election shall be composed of the board of county commissioners of the county in which the votes were cast in that election.

B. Within ten days after the date of the election, the canvassing board shall meet and shall:

(1) canvass the returns in the same manner as county election returns are canvassed; and

(2) issue a certificate of canvass of the results of the election and send one copy of the certified results to:

(a) each local governing body receiving votes in the county;

(b) the secretary of state;

(c) the county clerk; and

(d) the state canvassing board, if the results are for candidates or ballot questions voted on by the voters of more than one county.

C. The state canvassing board shall meet in the state capitol on the second Tuesday after each local election and proceed to canvass and declare the results of the election or nomination of each candidate or ballot question voted upon by the voters of more than one county. Upon the completion of the state canvass, the secretary of state shall notify each county clerk of the results of the state canvass.

D. In the event of a tie vote between any candidates in the election for the same office, the determination as to which of the candidates shall be declared to have been elected shall be decided by lot. The method of determining by lot shall be agreed upon by a majority of a committee consisting of the tied candidates and the county clerk and district judge of the county in which the administrative office of the local government is situated. The secretary of state shall issue the certificate of election to the candidate chosen by lot.

E. If a top-two runoff election is required in a municipal election, the canvassing board shall notify the relevant municipality within ten days following the local election.

F. Except in the case of a top-two runoff election, on the twenty-first day following the election, the secretary of state shall issue a certificate of election or nomination to each candidate who received the most votes for each position on the ballot and shall certify the passage or defeat of each ballot question."

## **Chapter 79 Section 29 Laws 2018**

SECTION 29. Section 1-22-16 NMSA 1978 (being Laws 1985, Chapter 168, Section 18) is repealed and a new Section 1-22-16 NMSA 1978 is enacted to read:

### **"1-22-16. MUNICIPAL RUNOFF ELECTIONS.--**

A. All runoff elections authorized by Article 7, Section 5 of the constitution of New Mexico shall be conducted pursuant to this section as a top-two runoff election or as a ranked-choice runoff election as follows:

(1) a top-two runoff election shall be conducted on a separate ballot when the candidate receiving the most votes for an office did not receive the percentage of votes required by the laws of the municipality to be elected in the first round of voting. When ordered, the top-two runoff election shall be held following the regular local election or municipal officer election and allow the voter to select between the two candidates who in the first round of voting received the highest number of votes for an office; and

(2) a ranked-choice runoff election shall be conducted on the same ballot as the regular local election or municipal officer election and allow the voter to rank the candidates for an office in the order of preference for the voter.

B. If a municipality whose laws provide for top-two runoff elections is notified by the canvassing board that a runoff election is required following the regular local election or municipal officer election, the top-two runoff election shall be conducted in accordance with the provisions of the municipality's ordinance or charter that supplement the Local Election Act, provided that:

(1) in the case of a municipality in which the first round of voting is conducted at the regular local election, the county clerk shall perform the duties of administering the top-two runoff election; and

(2) in the case of a municipality in which the first round of voting is conducted at the municipal officer election, the municipal clerk shall perform the duties of administering the top-two runoff election.

C. A municipality whose laws provide for a runoff election shall conduct the election in the manner provided by the municipality's ordinance or charter, provided that a municipality may by ordinance choose between conducting a top-two runoff election and a ranked-choice runoff election. The ordinance shall be filed with the secretary of state no later than January 30 of the year the next regular local election or municipal officer election is scheduled.

D. The secretary of state shall issue rules to implement top-two and ranked-choice runoff elections."

## **Chapter 79 Section 30 Laws 2018**

SECTION 30. Section 1-22-17 NMSA 1978 (being Laws 1985, Chapter 168, Section 19, as amended) is repealed and a new Section 1-22-17 NMSA 1978 is enacted to read:

"1-22-17. RECORDS.--The returns and certificates of the result of the canvass of a regular or special local election are public documents, subject to inspection and retention as provided by Section 1-12-69 NMSA 1978. The certificate of results of the canvass of the election shall, forty-five days after the election or recount after any contest has been settled by the court, be preserved as a permanent record in the state records center. A copy of the certificate of results of the canvass of the election shall be preserved as a permanent record in the office of the county clerk in a separate book maintained for recording the results of elections."

## **Chapter 79 Section 31 Laws 2018**

SECTION 31. Section 1-22-18 NMSA 1978 (being Laws 1985, Chapter 168, Section 20, as amended) is repealed and a new Section 1-22-18 NMSA 1978 is enacted to read:

"1-22-18. LOCAL ELECTION--DATE TERM OF OFFICE BEGINS.--The term of office of a candidate elected in a regular local election or ensuing top-two runoff election shall begin on January 1 following the candidate's election, and the candidate to whom a certificate of election has been issued shall take the oath of office before entering upon the duties of office."

## **Chapter 79 Section 32 Laws 2018**

SECTION 32. Section 1-22-19 NMSA 1978 (being Laws 1985, Chapter 168, Section 21, as amended) is repealed and a new Section 1-22-19 NMSA 1978 is enacted to read:

"1-22-19. ABSENTEE VOTING--ALTERNATE VOTING LOCATIONS.--

A. The provisions of the Absent Voter Act and Uniform Military and Overseas Voter Act apply to absentee voting in local elections.

B. Early voting shall be conducted in each office of the county clerk pursuant to Section 1-6-5 NMSA 1978 and at such alternate voting locations as may be established by the county clerk pursuant to the provisions of Section 1-6-5.7 NMSA 1978.

C. A county clerk shall provide at least one alternate early voting or mobile alternate voting location in a municipality when requested by a municipality in the county; provided that the:

(1) municipality submits a written request to the county clerk no later than January 30 of the year of the local election;

(2) alternate early voting or mobile alternate voting location may operate for less than the full early voting period, to be decided upon between the municipality and the county clerk;

(3) location of the alternate early voting or mobile alternate voting location in the municipality conforms to the requirements for alternate early voting locations; and

(4) municipality provides the facility and services for the alternate early voting or mobile alternate voting location."

## **Chapter 79 Section 33 Laws 2018**

SECTION 33. A new section of the Local Election Act is enacted to read:

"COSTS OF ELECTIONS--LOCAL ELECTION ASSESSMENT--LOCAL ELECTION FUND ESTABLISHED.--

A. There is created in the state treasury the "local election fund" solely for the purposes of:

(1) reimbursing the counties for the costs of conducting and administering regular local elections required by the Local Election Act;

(2) paying the administrative costs of the office of the secretary of state for administering elections required by the Local Election Act and for administering the local election fund; and

(3) carrying out all other specified provisions of the Local Election Act.

B. The state treasurer shall invest the local election fund as other state funds are invested, and all income derived from the fund shall be credited directly to the fund. Remaining balances at the end of a fiscal year shall remain in the fund and not revert to the general fund.

C. Money received from the following sources shall be deposited directly into the local election fund:

(1) annual assessments imposed on local governments pursuant to Subsection F of this section; and

(2) money appropriated to the fund by the legislature.

D. Money in the local election fund is appropriated to the secretary of state for the purposes authorized in Subsection A of this section and for distribution to the counties for reimbursement of reasonable costs associated with conducting and administering regular local elections required by the Local Election Act. Money in the fund shall only be expended on warrants of the department of finance and administration pursuant to vouchers signed by the secretary of state or the secretary's designee.

E. In the event that current year balances in the local election fund do not cover the costs of local elections, the secretary of state may apply to the state board of finance for an emergency grant to cover those costs pursuant to Section 6-1-2 NMSA 1978.

F. Each local government whose local governing body is elected in the regular local election shall pay an annual assessment to the secretary of state for deposit into the local election fund. The first one-half of the annual assessment shall be paid no later than thirty days following the close of the sixth month of each fiscal year, and the second one-half of the annual assessment shall be paid no later than thirty days following the close of each fiscal year. Assessments are based on a local government's general fund expenditures for each fiscal year; provided that no assessment shall be

made on federal funds received by a local government nor on capital expenditures. The annual assessment shall be equal to two hundred fifty dollars (\$250) per one million dollars (\$1,000,000) or minor fraction thereof of the local government's general fund expenditures; provided that:

(1) for a municipality that adopts an ordinance pursuant to Section 1-22-16 NMSA 1978 to have a top-two runoff election, the annual assessment shall be equal to five hundred dollars (\$500) per one million dollars (\$1,000,000) or minor fraction thereof of the municipality's general fund expenditures; and

(2) no assessment shall be paid by a local government with general fund expenditures less than one hundred thousand dollars (\$100,000)."

## **Chapter 79 Section 34 Laws 2018**

SECTION 34. A new section of the Local Election Act is enacted to read:

"MUNICIPAL OFFICER ELECTION DAY--PROCEDURES--EXCEPTIONS.--

A. All municipalities shall elect their municipal officers on the municipal officer election day, which is the first Tuesday in March of even-numbered years.

B. Except as provided in Subsection C of this section, any municipality may by ordinance opt in to the election of its municipal officers in the regular local election if the municipality passes an ordinance and files the ordinance with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled. The ordinance shall also determine if the terms of office for current office holders will be lengthened or shortened to correspond with the new election date. A municipality that has passed an ordinance pursuant to this subsection may at any time rescind the ordinance opting in to the election of its municipal officers in the regular local election upon filing the rescission with the secretary of state no later than January 30 of the year in which the next regular local election is scheduled.

C. A home rule municipality that pursuant to its charter is implementing a form of required voter identification that supersedes the provisions of Section 1-1-24 NMSA 1978 shall not elect its municipal officers at the regular local election.

D. For municipalities that elect their officers on municipal officer election day, all provisions of the Local Election Act as supplemented by the Election Code apply, except as provided in this section and except for those election procedures contained in the charter of a home rule municipality that operate in lieu of or in addition to the provisions of the Election Code.

E. Except as otherwise provided in this subsection, declarations of candidacy for municipal officer elections shall be filed between 9:00 a.m. and 5:00 p.m. on the fifty-sixth day before the election. For a home rule municipality whose charter or



ordinance requires that a candidate file a declaration of candidacy before qualifying for public financing, declarations of candidacy shall be filed on the date provided in the municipality's charter. Write-in candidates for municipal officer elections shall file declarations of candidacy between 9:00 a.m. and 5:00 p.m. on the forty-ninth day before the election. The last day to file a statement of withdrawal for a municipal officer election is forty-nine days before the election.

F. Except for municipalities that, pursuant to Section 1-22-16 NMSA 1978, have chosen to have a top-two runoff election, the term of office for municipalities holding elections pursuant to this section shall begin the first day of the month following the election. For home rule municipalities that hold a top-two runoff election, the term of office for municipalities holding elections pursuant to this section shall begin the first day of the month following the runoff election.

G. A municipality holding municipal officer elections pursuant to this section may place ballot questions on the ballot of an election held pursuant to this section and as otherwise provided in the Local Election Act.

H. The municipal clerk shall fulfill the duties of the county clerk in the conduct of elections held pursuant to this section and, except for recall elections, special local elections held pursuant to Section 1-24-3 NMSA 1978. The county clerk shall maintain accurate voter registration information for each municipality located in the county. The county clerk shall provide to the municipal clerk, in advance of an election held pursuant to this section, the names of only those voters entitled to vote in the municipal election. The municipality shall bear the reasonable cost of preparation of the voter lists, signature rosters and voter registration in electronic format and all other costs of administering municipal officer and special elections held pursuant to this section.

I. The secretary of state shall issue the proclamation calling for an election pursuant to this section in accordance with the provisions of Section 1-22-4 NMSA 1978. The municipal clerk shall publish the proclamation in accordance with the schedule and procedures provided in Subsection D of Section 1-22-4 NMSA 1978. Each county clerk shall post the entire proclamation on the county clerk's website along with a notice of which municipalities in the county are conducting elections pursuant to this section.

J. The governing body of the municipality may act in relation to the duties of the board of county commissioners set forth in Section 1-3-2 NMSA 1978 that are applicable to the conduct of an election held pursuant to this section."

## **Chapter 79 Section 35 Laws 2018**

SECTION 35. A new section of the Local Election Act is enacted to read:

"MUNICIPALITIES--ADJUSTMENT OF DATES FOR PROCEDURES  
AFFECTED BY THE LOCAL ELECTION ACT.--

A. A municipality that has enacted provisions or procedures in an ordinance or its charter that are supplemental to provisions in the Election Code shall adjust the calendar dates that implement those provisions and procedures to accord with the schedules imposed by the Local Election Act for the conduct of local or municipal officer elections. The municipal clerk shall post the conforming dates on the municipality's website no later than January 30 of each odd-numbered year.

B. A municipality may change its charter by ordinance or as otherwise provided by the municipality to conform its election schedule with the requirements of this section."

**Chapter 79 Section 36 Laws 2018**

SECTION 36. Section 1-22A-2 NMSA 1978 (being Laws 2013, Chapter 180, Section 2) is amended to read:

"1-22A-2. DEFINITIONS.--As used in the School District Campaign Reporting Act:

A. "campaign committee" means one or more persons authorized by a candidate to raise, collect or expend contributions on the candidate's behalf for the purpose of electing the candidate to office;

B. "candidate" means a person who seeks or considers an office in an election covered by the School District Campaign Reporting Act and who either has filed a declaration of candidacy or has received contributions or made expenditures of five hundred dollars (\$500) or more or authorized another person or campaign committee to receive contributions or make expenditures of five hundred dollars (\$500) or more for the purpose of seeking election to a covered office;

C. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign; but "contribution" does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or campaign committee;

D. "covered office" means the position of board of education member of a school district that has an enrollment of twelve thousand students or more or the position of board member of a community college organized or operating pursuant to the provisions of Chapter 21, Article 13 or Article 16 NMSA 1978;

E. "election cycle" means the period beginning thirty days after an election for an office and ending thirty days following the subsequent election day for that office;

F. "expenditure" means a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value for a political purpose, including payment of a debt incurred in an election campaign;

G. "political purpose" means advocating the election or defeat of a candidate in an election;

H. "prescribed form" means a form or electronic format prepared and prescribed by the secretary of state; and

I. "reporting individual" means a candidate or treasurer of a campaign committee."

## **Chapter 79 Section 37 Laws 2018**

SECTION 37. Section 1-22A-3 NMSA 1978 (being Laws 2013, Chapter 180, Section 3) is amended to read:

### **"1-22A-3. REPORTS REQUIRED--TIME AND PLACE OF FILING.--**

A. A candidate or campaign committee that has received contributions or made expenditures of five hundred dollars (\$500) or more shall file with the secretary of state a report of all contributions received and expenditures made on a prescribed form, and the report shall be filed in the same or similar electronic system as that used for the Campaign Reporting Act. Except as otherwise provided in this section, all reports pursuant to the School District Campaign Reporting Act shall be filed electronically and electronically authenticated by the candidate using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act.

B. A candidate or campaign committee shall file a campaign report of all contributions received and expenditures made during an election cycle and not previously reported by midnight on the twenty-first day before the election and on the thirtieth day following the election.

C. If a reporting date set by Subsection B of this section falls on a holiday, the report shall be filed on the next business day.

D. If a candidate or campaign committee has not received any contributions and has not made any expenditures since the last report filed with the secretary of state, the candidate or campaign committee shall only be required to file a statement of no activity, which shall not be required to be notarized, in lieu of a full report when that report would otherwise be due.

E. A report of expenditures and contributions filed after a deadline set forth in this section shall not be deemed to have been timely filed.

F. Except for candidates and campaign committees that file a statement of no activity, each candidate or campaign committee shall file a report of expenditures and contributions pursuant to the filing schedules set forth in this section, regardless of whether any expenditures were made or contributions were received during the reporting period. Reports shall be required until the candidate or campaign committee delivers a report to the secretary of state stating that:

(1) there are no outstanding campaign debts;

(2) all money has been expended in accordance with the provisions of Section 1-22A-10 NMSA 1978; and

(3) the bank account for campaign funds maintained by the candidate or campaign committee has been closed.

G. A candidate who does not ultimately file a declaration of candidacy and does not file a statement of no activity shall file reports in accordance with Subsection B of this section.

H. A candidate may apply to the secretary of state for exemption from electronic filing in case of hardship, which shall be defined by the secretary of state."

## **Chapter 79 Section 38 Laws 2018**

SECTION 38. Section 1-24-1 NMSA 1978 (being Laws 1989, Chapter 295, Section 1) is amended to read:

"1-24-1. SHORT TITLE--SPECIAL ELECTION ACT--APPLICATION--EXCEPTION.--

A. Chapter 1, Article 24 NMSA 1978 may be cited as the "Special Election Act".

B. Notwithstanding any state or local laws to the contrary, the provisions of the Special Election Act govern the conduct of all special elections conducted by the state or a local government, except for ballot questions printed on a general election ballot or a ballot on which local governing body members are elected pursuant to the Local Election Act."

## **Chapter 79 Section 39 Laws 2018**

SECTION 39. A new section of the Special Election Act is enacted to read:

"DEFINITION.--As used in the Special Election Act, "local government" means:

- A. a county;
- B. a local government subject to the Local Election Act; or
- C. a special district not subject to the Local Election Act."

## **Chapter 79 Section 40 Laws 2018**

SECTION 40. Section 1-24-2 NMSA 1978 (being Laws 1989, Chapter 295, Section 2, as amended) is amended to read:

"1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--PUBLICATION.--

A. Whenever a local government special election is to be called or is required by law, the governing body shall by resolution issue a public proclamation calling the election. The proclamation shall forthwith be filed with the county clerk. The proclamation shall specify:

- (1) the date on which the special election will be held;
- (2) the purpose for which the special election is called;
- (3) the text of any questions to be voted on; and
- (4) the date and time of closing the registration books by the county clerk as required by law.

B. After filing with the county clerk the proclamation issued pursuant to Subsection A of this section, and beginning not less than sixty-three days before the date of the election, the county clerk shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation within the boundaries of the local government or special district. The proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended.

C. Whenever a statewide special election is to be called or is required by law, the governor shall by resolution issue a public proclamation calling the election. Whenever an election to fill a vacancy in the office of United States representative is to be called or is required by law, the governor shall by resolution issue a public proclamation calling the election pursuant to the requirements of Section 1-15-18.1 NMSA 1978. The proclamation shall forthwith be filed with the secretary of state. The proclamation shall specify:

- (1) the date on which the special election will be held;

(2) the purpose for which the special election is called;

(3) if a vacancy in the office of United States representative is to be filled, the date on which declarations of candidacy are to be filed;

(4) the text of any questions to be voted upon; and

(5) the date and time of closing the registration books by the county clerk as required by law.

D. After the proclamation issued pursuant to Subsection C of this section is filed with the secretary of state, the secretary of state shall within five days certify the proclamation to each county clerk in the state. Beginning not less than sixty-three days before the date of the election, the county clerk shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation.

E. For an election called pursuant to Subsection F of Section 1-15-18.1 NMSA 1978, the proclamation shall be published consistent with this subsection not less than thirty-six days before the date of the election. The proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended."

## **Chapter 79 Section 41 Laws 2018**

SECTION 41. Section 1-24-3 NMSA 1978 (being Laws 1989, Chapter 295, Section 3) is amended to read:

### **"1-24-3. SPECIAL ELECTION PROCEDURES--CONDUCT.--**

A. The county clerk shall conduct by mailed ballot any special election called by the state or a local government except for a special election for the office of United States representative.

B. Upon the calling of an election by a mailed ballot, the county clerk shall send each voter of the relevant jurisdiction an absentee ballot along with a statement that there will be no polling place for the election. The voter shall not be required to file an application for the absentee ballot. The ballot shall be mailed to each voter on the twenty-eighth day before the election or as soon as practicable thereafter. The return envelope for the ballot shall be postage-paid.

C. Mailed ballot elections shall be used exclusively for voting in special elections on a ballot question, including a recall election.

D. The state shall pay all costs of a statewide special election and a special election for the office of United States representative. A local government shall reimburse the county for all costs associated with the conduct of the local government's special election."

## **Chapter 79 Section 42 Laws 2018**

SECTION 42. A new section of Chapter 1, Article 24 NMSA 1978 is enacted to read:

"SPECIAL ELECTION PROCEDURES--COSTS OF ELECTION--PROHIBITION ON NONGOVERNMENTAL ENTITIES.--

A. The costs of conducting a special election shall be paid for by the state or local government calling for the election.

B. No individual, corporation, person, political action committee or other nongovernmental entity shall pay for or reimburse the state or a local government for the costs associated with conducting a special election.

C. Upon a finding of a violation of this section, the district court shall nullify the votes cast in the special election and shall void the result of the special election."

## **Chapter 79 Section 43 Laws 2018**

SECTION 43. Section 3-1-5 NMSA 1978 (being Laws 1985, Chapter 208, Section 2, as amended) is amended to read:

"3-1-5. PETITIONS--EXAMINATIONS OF SIGNATURES--PURGING--JUDICIAL REVIEW.--

A. All petitions, filing of petitions, verification of petitions and all other acts to be performed by petitioners, public officers or employees, regarding only those petitions that trigger a municipal special or regular election as authorized in the Municipal Code or otherwise authorized by law, shall comply with the terms of this section, except as otherwise expressly provided by law.

B. Each page or group of pages of a petition shall be accepted for filing by a municipal clerk, a county clerk, a governing body or a board of county commissioners only if:

(1) the municipal clerk has approved the form of petitions to be filed with the municipality prior to circulation of the petition; or

(2) the county clerk has approved the form of petitions to be filed with the county prior to circulation of the petition; and

(3) each page of the petition to be filed contains the approval or facsimile approval of the municipal or county clerk and the petition heading and penalty statement are legible when submitted for filing.

C. The municipal or county clerk shall approve a petition as to form if the proposed petition form contains:

(1) a heading that complies with a particular form of heading required by law; or

(2) a heading that clearly conveys the purpose for signing the petition if no particular form of heading is required by law;

(3) a place for the person signing the petition to write the date and the person's name (printed), address and signature, unless other requirements are mandated by law, and then the petition shall comply with those requirements; and

(4) a statement that any person knowingly providing or causing to be provided any false information on a petition, forging a signature or signing a petition when that person knows that person is not a qualified elector in the municipality is guilty of a fourth degree felony.

D. The requirements of Subsection B of this section shall be deemed complied with if an original form of petition is submitted to a municipal or county clerk for approval prior to circulation and after approval by the clerk that the original form is reproduced by photocopying or other similar means so that the form and clerk's approval are unchanged from the original and are legible on each page of the petition to be filed.

E. A petition filed with a municipal clerk, a county clerk, a governing body or a board of county commissioners shall include all individual pages of a petition complying with the provisions of this section, regardless of whether the pages are filed singly or in a group. Pages complying with the provisions of this section may be filed at different times so long as filing is within the time period allowed by law for the filing of the particular petition to be filed. If no time period is established by law, petition signatures may not span a period of time greater than sixty days from the date of the earliest signature on the petition, and the petition shall be filed within sixty-five days from the date of the earliest signature on the petition.

F. Upon approval of a proposed petition as to form, the municipal clerk shall notify the county clerk of the approval, and the county clerk shall furnish a current voter registration list of qualified electors entitled to vote in municipal elections to the municipal clerk within fourteen days of the notification.

G. When a petition is filed with a municipal clerk, a county clerk, a governing body or a board of county commissioners, the governing body or board of county commissioners shall either certify the petition as valid or order an examination of the petition and the names, addresses and signatures on the petition.



H. When an examination of the petition and the names, addresses and signatures on the petition is ordered, the municipal clerk, county clerk, governing body or board of county commissioners shall:

(1) resolve issues of residency and major infractions in accordance with the Election Code;

(2) determine the minimum number of valid names, addresses and signatures, as mandated by law, that must be contained in the particular petition filed in order for it to be declared a valid petition;

(3) examine the petition and the names, addresses and signatures on the petition, purge from the petition the signature of any person who is not shown as a qualified elector of the municipality on the list of registered voters provided by the county clerk, purge any signature that is a forgery or that is illegible, purge any signature that appears more than once or that cannot be matched to the name, address and signature as shown on the voter registration lists and the original affidavit of registration, purge the signature of any person who has not signed within the time limits set by law and purge the signature of any person who does not meet the qualifications for signing the petition as prescribed by law; and

(4) certify, no later than ten days after the petition is filed or after the expiration of the period within which the petition can be filed as prescribed by law, whichever occurs last, whether the petition contains the minimum number of valid names, addresses and signatures as mandated by law.

I. Nothing in this section shall preclude a person with a disability or an illiterate person from causing another person to sign a petition on a person with a disability's or an illiterate person's behalf, so long as the person signing for the person with a disability or illiterate person executes an affidavit acknowledged before a notary public that the person is authorized to sign the petition for the person with a disability or illiterate person. In order for the signature on behalf of the person with a disability or illiterate person to be counted and not purged, the original affidavit shall be submitted along with the petition containing the signature on behalf of the illiterate person or person with a disability.

J. If the petition is certified as valid pursuant to Subsection G of this section or is certified as containing in excess of the minimum number of valid names, addresses and signatures mandated by law, then such certification shall be recorded as part of the minutes at the next meeting of the governing body or the board of county commissioners.

K. If the petition is certified as containing less than the minimum number of valid names, addresses and signatures mandated by law, then the municipal clerk, county clerk, governing body or board of county commissioners shall:

(1) cause the names, addresses and signatures that were purged from the petition to be posted in the municipal or county clerk's office no later than on the day the petition is certified;

(2) determine the total number of people signing the petition, the number purged, the number that were not purged and the minimum number of valid names, addresses and signatures required by law for such a petition and post this information along with and at the same time as the posting required in Paragraph (1) of this subsection;

(3) publish once, pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978, within one week of the certification, the information compiled pursuant to Paragraphs (1) and (2) of this subsection; and

(4) cause the information compiled pursuant to Paragraphs (1) and (2) of this subsection and the date and place of publication pursuant to Paragraph (3) of this subsection to be recorded as part of the minutes at the next meeting of the governing body or the board of county commissioners after publication has occurred.

L. The following rules shall govern reinstatement of purged signatures:

(1) within ten days after the petition is certified as containing less than the minimum number of valid names, addresses and signatures mandated by law, any person whose signature has been purged from a petition may present evidence to the clerk to show that the person's signature has been wrongfully purged;

(2) if the clerk fails to reinstate that person's signature within three days of demand, then that person may, within ten days of the clerk's refusal to reinstate, petition the district court for an order to reinstate the person's signature on the petition. Upon a prima facie showing by the petitioner of the right to have that person's signature included upon the petition, the district court shall issue an order to the municipal clerk, county clerk, governing body or board of county commissioners to require reinstatement of the signature of the petitioner;

(3) within ten days after receiving the order of the district court, the municipal clerk, county clerk, governing body or board of county commissioners shall reinstate the signature of the petitioner on the petition or show cause why the signature of the petitioner has not been reinstated. Upon hearing, if the district court finds that the person whose signature has been purged meets the qualifications for signing the petition, the district court shall make final its order of reinstatement to the municipal clerk, county clerk, governing body or board of county commissioners; and

(4) if a sufficient number of signatures are reinstated by the clerk, the district court or both to make the petition valid, then the reinstatement by the clerk or the district court, whichever occurs last, shall be deemed the date of certification of the

validity of the petition for the purposes of adopting election resolutions, calling elections or for other matters as provided in the Municipal Code or otherwise provided by law.

M. Any petition that contains an insufficient number of signatures after all signatures have been reinstated pursuant to Subsection L of this section is invalid.

N. When a petition governed by this section is filed with the municipal clerk or the governing body of a municipality, the governing body or municipal clerk shall perform or cause to be performed the duties required under this section, except as otherwise prohibited by law. When a petition governed by this section is required to be filed with the county clerk or board of county commissioners, the board of county commissioners or county clerk shall perform or cause to be performed the duties required under this section, except as otherwise prohibited by law.

O. Any person or any municipal or county official knowingly violating the provisions of this section, knowingly providing or causing to be provided any false information on a petition or forging a signature or otherwise signing a petition when that person knows the person is not a qualified elector in the municipality is guilty of a fourth degree felony.

P. The provisions of this section shall not be binding upon a municipality to the extent such provisions are inconsistent with or superseded by the terms and provisions of:

(1) the charter of a municipality incorporated by a special act;

(2) the charter of a municipality adopted pursuant to Article 10, Section 6 of the constitution of New Mexico;

(3) the charter of a municipality adopted pursuant to the Municipal Charter Act; or

(4) the charter of a combined municipal organization.

Q. Once a petition has been filed with a municipal clerk, a county clerk, a governing body or a board of county commissioners, no name on the petition may be withdrawn except those names purged pursuant to Subsection H of this section."

## **Chapter 79 Section 44 Laws 2018**

SECTION 44. Section 3-2-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-4, as amended) is amended to read:

"3-2-5. INCORPORATION--DUTIES OF COUNTY COMMISSIONERS AFTER FILING OF PETITION TO ACT--CENSUS REQUIRED--ELECTION--RIGHT OF APPEAL TO DISTRICT COURT.--

A. After the petition for incorporation, together with the accompanying map or plat, the municipal services and revenue plan and the amount of money sufficient to pay the cost of a census have been filed with the board of county commissioners, the board of county commissioners, in lieu of complying with the requirements of Section 3-1-5 NMSA 1978, shall determine within thirty days after the filing of the petition:

(1) from the voter registration list in the office of the county clerk if the signers of the petition are qualified electors residing in the territory proposed to be incorporated; or

(2) from the tax schedules of the county if any of the owners of the real estate who signed the petition are delinquent in the payment of property taxes; and

(3) if the territory proposed to be incorporated is within an existing municipality or within the urbanized area of a municipality.

B. If the board of county commissioners determines that the territory proposed to be incorporated is:

(1) not within the boundary of an existing municipality and not within the urbanized area of a municipality; or

(2) within the urbanized area of another municipality and in compliance with Section 3-2-3 NMSA 1978, the board of county commissioners shall cause a census to be taken of the persons residing within the territory proposed to be incorporated.

C. The census shall be completed and filed with the board of county commissioners within thirty days after the board of county commissioners authorizes the taking of the census.

D. Within fifteen days after the date the results of the census and the municipal incorporation review team's report have been filed with the board of county commissioners, the board of county commissioners shall determine if the conditions for incorporation of the territory as a municipality have been met as required in Sections 3-2-1 through 3-2-3 NMSA 1978 and shall have its determination recorded in the minutes of its meeting.

E. Based on the census results and the municipal incorporation review team's report, if the board of county commissioners determines that the conditions for incorporation have not been met, the board of county commissioners shall notify the petitioners of its determination by publishing in a newspaper of general circulation in the territory proposed to be incorporated, once, not more than ten days after its determination, a notice of its determination that the conditions for incorporation have not been met. If there is no newspaper of general circulation in the territory proposed to be

incorporated, notice of the determination shall be posted in eight public places within the territory proposed to be incorporated.

F. After the board of county commissioners has determined that all of the conditions for incorporation of the territory as a municipality have been met, the board of county commissioners shall hold an election on the question of incorporating the territory as a municipality. Special elections for the incorporation of municipalities shall only be held in June or July in odd-numbered years or July or August in even-numbered years and shall be held pursuant to the provisions of the Local Election Act. The county clerk shall notify the secretary of finance and administration and the secretary of taxation and revenue of the date of the incorporation election within ten days after the adoption of the resolution calling the election.

G. The signers of the petition or a municipality within whose urbanized area the territory proposed to be incorporated is located may appeal any determination of the board of county commissioners to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **Chapter 79 Section 45 Laws 2018**

SECTION 45. Section 3-2-8 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-7, as amended) is amended to read:

"3-2-8. INCORPORATION--ELECTION OF FIRST OFFICERS--DUTIES OF BOARD OF COUNTY COMMISSIONERS AND COUNTY CLERK--SELECTION OF TERMS OF FIRST OFFICERS.--

A. If a majority of the votes cast favors the incorporation of the territory as a municipality, the board of county commissioners shall call an election for the purpose of electing municipal officers at the first regular local or general election following approval. The election shall be conducted pursuant to the provisions of the Local Election Act. The county clerk shall notify the secretary of finance and administration and the secretary of taxation and revenue of the date of the first election of municipal officers within ten days after the county commissioners have called the election.

B. At the first election for municipal officers following a vote in favor of incorporating territory as a municipality, the terms of office for the mayor and the municipal judge shall be until the next regular local election. The terms of office for one-half of the members of the governing body shall be until the next regular local election and for the remaining one-half of the members of the governing body until the second regular local election is held. The elected municipal officers shall continue in office until their successors are elected and qualified. The length of the terms of the first members shall be determined by lot."

## **Chapter 79 Section 46 Laws 2018**

SECTION 46. Section 3-3-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-3-2, as amended) is amended to read:

"3-3-2. MUNICIPALITIES INCORPORATED UNDER SPECIAL ACT--PETITION FOR REORGANIZATION--ELECTION.--Any municipality incorporated under a special act may abandon its organization and organize itself under the provisions of the general law relating to municipalities.

A. If a petition signed by qualified electors of the municipality equal in number to not less than one-eighth of the total number of votes at the last preceding regular municipal election requests the governing body to submit to the qualified electors the question of reorganizing the municipality under the provisions of the Municipal Code, the governing body shall, within fourteen days after the petition is certified as valid, adopt an election resolution calling for a special election in the manner provided in the Local Election Act on the question of reorganizing the municipality under the provisions of general law. The special election shall only be held in June or July in odd-numbered years or July or August in even-numbered years in accordance with the provisions of the Local Election Act.

B. The petition may further propose that the boundary of the municipality incorporated by special act be extended by including any or all territory that is:

(1) laid off or platted;

(2) adjoining or contiguous to the municipality or any addition or subdivision of the municipality; and

(3) not within the boundary of another municipality.

C. The petition shall describe the boundary of the municipality as it would exist if the municipality incorporated by special act is reorganized under general law. The registered voters residing within the boundary of the municipality as it would exist if the municipality incorporated by special act is reorganized may vote in the election authorized in this section."

## **Chapter 79 Section 47 Laws 2018**

SECTION 47. Section 3-3-4 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-3-4, as amended) is amended to read:

"3-3-4. MUNICIPALITIES INCORPORATED UNDER SPECIAL ACT--REORGANIZATION APPROVED--ELECTION FOR NEW OFFICERS--TERM OF OFFICE.--

A. If a majority of the votes cast on the question of reorganizing a municipality incorporated by a special act favors reorganizing the municipality under

general law, the governing body shall adopt an election resolution calling for an election of officers, which shall be held at the first regular local or general election following approval of reorganization. The election shall be called, conducted and canvassed in the manner provided in the Local Election Act.

B. The terms of office for the mayor, municipal judge and one-half of the members of the governing body shall be until the next regular local election. The terms of office for the remaining one-half of the governing body shall be until the second regular local election is held. The elected municipal officers shall continue in office until their successors are elected and qualified. The length of terms of the first members shall be determined by lot."

### **Chapter 79 Section 48 Laws 2018**

SECTION 48. Section 3-4-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-4-1, as amended) is amended to read:

"3-4-1. DISINCORPORATION--PETITION--NOTICE OF ELECTION.--

A. If one-fourth of the registered voters of a municipality petition the board of county commissioners of the county in which the municipality is situated to disincorporate the municipality, the board of county commissioners shall, within fourteen days after the petition has been certified as valid, adopt an election resolution calling for a special election to be held within the municipality on the question of disincorporating the municipality. At the top of each page of a disincorporation petition, the following heading shall be printed in substantially the following form:

"PETITION TO DISINCORPORATE THE MUNICIPALITY OF. . . . .

We, the undersigned registered voters of the municipality of ....., pursuant to Section 3-4-1 NMSA 1978, petition the board of county commissioners of.....county to conduct a special election on the question of disincorporating the municipality of.....

|      |               |               |             |
|------|---------------|---------------|-------------|
| Date | Name--Printed | Address       | Usual       |
|      | As Registered | As Registered | Signature." |

The day for holding the election shall not be less than fifty days or more than sixty days after the board of county commissioners adopts the election resolution.

B. Notice of the election shall be published as required in the Local Election Act."

### **Chapter 79 Section 49 Laws 2018**

SECTION 49. Section 3-4-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-4-3, as amended) is amended to read:

"3-4-3. DISINCORPORATION--CONDUCT OF ELECTION.--The election for disincorporation shall be conducted pursuant to the provisions of the Local Election Act."

## **Chapter 79 Section 50 Laws 2018**

SECTION 50. Section 3-5-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-5-1, as amended) is amended to read:

"3-5-1. MUNICIPAL CONSOLIDATION--COMMISSIONERS--ORDINANCES--SPECIAL ELECTION--DECLARATION OF CONSOLIDATION--PAYMENT OF BONDED INDEBTEDNESS OR JUDGMENT LEVY.--

A. Whenever any two or more contiguous municipalities wish to consolidate as one municipality, the governing body of each municipality shall appoint three commissioners who shall prepare the terms for consolidation and submit the terms for consolidation to the respective governing bodies. If each governing body approves the terms for consolidation, it shall adopt an ordinance declaring approval of the terms for consolidation and shall provide for an election on the question of consolidation. The election shall be conducted pursuant to the provisions of the Local Election Act.

B. If a majority of the votes cast in each municipality favors consolidation, the governing body of each municipality shall declare, by ordinance, that consolidation has been approved between the municipalities and proceed to consolidate under the terms for consolidation. The municipal clerk of each municipality shall notify the secretary of finance and administration and the secretary of taxation and revenue that the consolidation has been approved by the electorate. If the question of consolidating the municipalities fails to receive a majority vote favoring consolidation in any one of the municipalities, the consolidation shall fail.

C. If on the day of the election on consolidation any municipality proposing to consolidate has outstanding indebtedness or a judgment payable from a tax on property and the consolidation is approved, a tax sufficient to pay the interest and principal on such indebtedness or judgment shall continue to be levied on the property within the boundary of the municipality as it existed on the day of the election on the question of consolidation. Indebtedness created by the issuance of revenue bonds and the current obligations of each municipality shall be assumed by the consolidated municipality. The consolidated municipality may refund the indebtedness of the municipalities that are consolidated.

D. Certified copies of the entire proceedings for consolidation shall be filed with the clerk of the municipality so consolidated, the county clerk and the secretary of



state. When certified copies of the consolidation have been filed as required in this section, the consolidation is complete."

## **Chapter 79 Section 51 Laws 2018**

SECTION 51. Section 3-10-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-9-1, as amended) is amended to read:

"3-10-1. OFFICERS--ELECTIVE--TERM OF OFFICE.--

A. The elective officers of a municipality having a mayor-council form of government are:

- (1) one mayor;
- (2) the members of the governing body; and
- (3) a municipal judge.

B. The elective officers of a municipality having a commission-manager form of government are:

- (1) five commissioners; and
- (2) a municipal judge.

C. Notwithstanding the provisions of Subsection A of this section, a municipality with a population of five hundred persons or less in the last federal decennial census shall not have a municipal judge if it adopts an effective ordinance in accordance with the provisions of Subsection B of Section 35-14-1 NMSA 1978.

D. In every noncharter municipality, except those noncharter municipalities having a commission-manager form of government or electing members of the governing body from districts, the terms of office for the mayor and members of the governing body shall be four years. The term of office for members of the governing body shall be staggered so that the terms of office for one-half of the members of the governing body will expire every two years.

E. Any elected municipal official whose term of office has expired shall continue in that office until a successor is elected and has taken office pursuant to the provisions of the Local Election Act."

## **Chapter 79 Section 52 Laws 2018**

SECTION 52. Section 3-11-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-10-5, as amended) is amended to read:

"3-11-5. MAYOR--APPOINTMENT OF OFFICERS AFTER ELECTION.--

A. At the organizational meeting of the governing body, the mayor shall submit, for confirmation by the governing body, the names of persons who shall fill the appointive offices of the municipality and the names of persons who shall be employed by the municipality. If the governing body fails to confirm any person as an appointive official or employee of the municipality, the mayor at the next regular meeting of the governing body shall submit the name of another person to fill the appointed office or to be employed by the municipality.

B. Any person holding an appointed office at the time of the municipal election shall continue in that office until the person's successor has been appointed and is qualified."

### **Chapter 79 Section 53 Laws 2018**

SECTION 53. Section 3-12-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-11-1, as amended) is amended to read:

"3-12-1. VACANCY ON GOVERNING BODY.--

Any vacancy on the governing body of a mayor-council municipality shall be filled by appointment of a qualified elector by the mayor of the municipality, with the advice and consent of the governing body. Any qualified elector appointed to fill a vacancy on the governing body shall serve until the next regular local election, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any."

### **Chapter 79 Section 54 Laws 2018**

SECTION 54. Section 3-13-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-12-1, as amended) is amended to read:

"3-13-1. CLERK--DUTIES.--

A. The clerk of the municipality shall:

(1) keep in custody all minutes, ordinances and resolutions approved by the governing body;

(2) attend all meetings of the governing body;

(3) record all proceedings, ordinances and resolutions of the governing body; and

(4) upon request, furnish copies of municipal records. The clerk may charge a reasonable fee for the cost of furnishing copies of municipal records.

B. The mayor with the consent of the governing body may designate other municipal employees to be deputy municipal clerks who shall have the right and duty to perform all of the duties of the municipal clerk."

## **Chapter 79 Section 55 Laws 2018**

SECTION 55. Section 3-14-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-2, as amended) is amended to read:

"3-14-2. COMMISSION-MANAGER--SPECIAL ELECTION FOR ADOPTION.--

A. Upon petition signed by qualified electors, not less in number than fifteen percent of the votes cast for the office of mayor at the last regular municipal election, filed with the municipal clerk and verified by the municipal clerk to contain a sufficient number of legal signatures, the governing body shall, within ten days of verification, adopt an election resolution calling for the holding of a special election on the question of organizing the municipality under the commission-manager form of government, or the governing body may submit to the qualified electors of the municipality the question of organizing the municipality under the commission-manager form of government. The election shall be held in June or July in odd-numbered years or July or August in even-numbered years in accordance with the provisions of the Local Election Act.

B. The question to be placed shall read substantially as follows:

"For the commission-manager form of government and providing for the election of five commissioners \_\_\_\_; and

Against the commission-manager form of government and providing for the election of five commissioners \_\_\_\_".

## **Chapter 79 Section 56 Laws 2018**

SECTION 56. Section 3-14-8 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-8, as amended) is amended to read:

"3-14-8. COMMISSIONERS--SPECIAL ELECTION--TERMS.--

A. Within ten days after the adoption of the commission-manager form of government, the governing body shall adopt an election resolution calling for the holding of an election for the purpose of electing five commissioners at the first regular or local or general election following adoption of the resolution. The election shall be conducted in the same manner as are regular local elections pursuant to the terms of the Local Election Act. The commissioners so elected shall determine their terms of office by lot, so that three commissioners shall serve until the next regular local election and two commissioners shall serve until the succeeding regular local election.

B. Their respective successors shall hold office for staggered periods of four years and until their successors are elected and take office as provided in the Local Election Act."

## **Chapter 79 Section 57 Laws 2018**

SECTION 57. Section 3-14-9 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-9, as amended) is amended to read:

"3-14-9. VACANCIES IN COMMISSION.--If a vacancy occurs in the commission, the remaining elected and appointed commissioners shall, by a majority vote, appoint a qualified elector to fill the vacancy until the next regular local election, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any."

## **Chapter 79 Section 58 Laws 2018**

SECTION 58. Section 3-14-19 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-19, as amended) is amended to read:

"3-14-19. ABANDONMENT OF COMMISSION-MANAGER GOVERNMENT.--

A. Within ten days of the verification of a petition submitted to the municipal clerk and signed by thirty percent of the qualified electors of the municipality, the commission shall adopt an election resolution calling for the holding of a special election to vote on the question of abandoning the commission-manager form of government. The election shall be held in June or July in odd-numbered years or July or August in even-numbered years in accordance with the provisions of the Local Election Act.

B. If a majority of the votes cast at the special election favors abandonment of the commission-manager form of government, the form of government reverts to that form of government existing immediately preceding the adoption of the commission-manager form of government after the election and taking office of the new officers and the commission shall adopt an election resolution calling for the holding of an election to elect new officers, which shall be held at the first regular local or general election following adoption of the resolution.

C. The election shall be held in the same manner as regular local elections are held as provided in the Local Election Act. The mayor and one-half of the members of the governing body shall hold office until the next regular local election and the remaining one-half of the members of the governing body shall hold office until the succeeding regular local election. The terms of the members of the governing body shall be determined by lot after their election.

D. No election shall be held upon the question of abandoning the commission-manager form of government within two years after an election has been

held adopting the commission-manager form of government or confirming its continued existence."

## **Chapter 79 Section 59 Laws 2018**

SECTION 59. Section 3-15-10 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-14-8) is amended to read:

"3-15-10. QUALIFICATIONS OF VOTERS--BALLOTS--CONDUCT OF ELECTION--EFFECT OF ADOPTION.--All qualified electors residing within the municipality shall be qualified to vote at the special election held under the Municipal Charter Act, and the vote shall be by separate ballots, one of which shall be:

"In favor of adoption of charter ?"; and the other:

"Against adoption of charter ?".

The special election shall be conducted in accordance with the Local Election Act and if a majority of all the votes cast shall favor the adoption of the charter, the charter shall take effect immediately insofar as necessary to authorize the election of officers, but shall not take effect otherwise until such date as may be specified in the charter, which date shall not be less than sixty days after the special election. After the date fixed by the charter, the municipality shall be deemed reorganized under the provisions of the charter, and the powers and duties of all officers elected or appointed under the former laws shall cease."

## **Chapter 79 Section 60 Laws 2018**

SECTION 60. Section 3-15-11 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-14-9) is amended to read:

"3-15-11. FIRST ELECTION OF OFFICERS--TIME--LAW GOVERNING.--In case the charter is adopted pursuant to Section 3-15-10 NMSA 1978, it shall be the duty of the presiding officer of the governing body of the municipality to issue a proclamation calling a special election for the election of such elective officers as may be provided for in the charter. The election shall be at least ten days before the date specified in the charter for it to go into effect, and the election shall be held in accordance with the provisions of the Local Election Act and the charter."

## **Chapter 79 Section 61 Laws 2018**

SECTION 61. Section 3-21-19 NMSA 1978 (being Laws 1965, Chapter 206, Section 5) is amended to read:

"3-21-19. ZONING COMMISSION.--A zoning commission consisting of five members shall be elected by the registered electors residing within the district in

accordance with the provisions of the Local Election Act. Members of the commission shall be residents of the district, and each shall be elected for a term of two years. Any vacancy on the commission shall be filled by the remaining members appointing a new member to fill the unexpired term. Members of the commission shall serve without compensation."

## **Chapter 79 Section 62 Laws 2018**

SECTION 62. Section 3-21-20 NMSA 1978 (being Laws 1965, Chapter 206, Section 6) is amended to read:

"3-21-20. ELECTION OF MEMBERS TO THE COMMISSION.--Election of members to the commission shall be conducted pursuant to the Local Election Act."

## **Chapter 79 Section 63 Laws 2018**

SECTION 63. Section 3-23-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-22-2, as amended) is amended to read:

"3-23-2. ELECTION ON QUESTION OF ACQUIRING UTILITY.--

A. No municipality shall acquire a municipal utility from funds acquired from the issuance of revenue bonds until the question of acquiring the utility is submitted, at a regular local election or special election, to a vote of the qualified electors of the municipality, and a majority of the votes cast on the question favors the acquisition of the utility. No special election shall be set for a date ninety days prior to the day of a regular local election. The acquisition by a municipality, which owns municipal electric facilities on July 1, 1979, of a generating facility or any interest in a jointly owned generating facility from funds acquired from the issuance of revenue bonds shall not be subject to the election requirement of this section.

B. Each question shall be listed separately on the ballot. The ballot shall:

(1) contain a general description of the property to be acquired; and  
(2) allow each voter to indicate whether the voter favors or opposes the acquisition.

C. The election shall be called and conducted as provided in the Local Election Act.

D. If a majority of the votes cast on the question favors the acquisition of the utility, the governing body may acquire the utility.

E. If, pursuant to Article 9, Section 12 of the constitution of New Mexico and Sections 3-30-1 through 3-30-9 NMSA 1978, the qualified electors of the

municipality and nonresident municipal electors have voted in favor of creating a debt for the acquisition of a municipal utility and the municipality has incurred the debt, the municipality need not hold the election required in this section and it shall be presumed that the acquisition of a municipal utility has been approved, or, if the municipality has owned and operated a municipal utility for a period of more than one year, it shall be presumed that the acquisition of the municipal utility has been approved."

## **Chapter 79 Section 64 Laws 2018**

SECTION 64. Section 3-23-5.1 NMSA 1978 (being Laws 2001, Chapter 179, Section 1) is amended to read:

### **"3-23-5.1. MUNICIPAL UTILITY PERMANENT FUND.--**

A. The governing body of a municipality may by ordinance establish a municipal utility permanent fund for each utility owned and operated by the municipality.

B. The municipal utility permanent fund shall be a fund in the municipal treasury into which may be deposited money from the sale of municipal utility assets or any portion of the unappropriated utility fund cash surplus that is in excess of fifty percent of the prior fiscal year's municipal utility budget. Money in the fund may be invested by the municipal board of finance as provided in Sections 6-10-10, 6-10-36 and 6-10-44 NMSA 1978.

C. Earnings from investment of a municipal utility permanent fund may be budgeted and appropriated by the governing body of the municipality for expenditure for any purpose related to the operation, maintenance and improvement of the municipal utility or deposited in the municipal utility permanent fund.

D. Money in the municipal utility permanent fund may be appropriated or expended only pursuant to approval of the voters of the municipality. The municipality may adopt a resolution calling for an election on the question of the expenditure of a specified amount of the municipal utility permanent fund for a specified purpose. The election shall be held within sixty days after the adoption of the resolution by the governing body. The election shall be called, conducted, counted and canvassed pursuant to the provisions of the Local Election Act. If a majority of the voters of the municipality voting on the question votes to approve the expenditure, that amount of money shall be available for appropriation from the municipal utility permanent fund for expenditure by the municipality for the specified purpose. If a majority of the voters of the municipality voting on the question votes against the expenditure, no money in the municipal utility permanent fund may be appropriated or expended for that purpose. Following an election at which the question was not approved, that question shall not again be submitted to the voters of the municipality for at least one year from the date of that election."

## **Chapter 79 Section 65 Laws 2018**

SECTION 65. Section 3-30-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-29-6, as amended) is amended to read:

"3-30-6. BOND ELECTION--QUALIFICATIONS OF VOTERS--SEPARATION OF ITEMS--TIME--PUBLICATION OR POSTING--BALLOTS.--

A. Before bonds are issued, the governing body of the municipality shall submit to a vote of the registered qualified electors of the municipality and the nonresident municipal electors the question of issuing the bonds. The election may be held at the same time as the regular local election or at any special election held pursuant to Article 9, Section 12 of the constitution of New Mexico.

B. The governing body of the municipality shall give notice of the time and place of holding the election and the purpose for which the bonds are to be issued. The election shall be conducted pursuant to the provisions of the Local Election Act.

C. The question shall state the purpose for which the bonds are to be issued and the amount of the issue. If bonds are to be issued for more than one purpose, a separate question shall be submitted to the voter for each purpose to be voted upon. The ballots shall contain words indicating the purpose of the bond issue and a place for a vote "For . . . (designate type) bonds" and "Against . . . (designate type) bonds" for each bond issue. The ballots shall be deposited in a separate ballot box unless voting machines are used."

## **Chapter 79 Section 66 Laws 2018**

SECTION 66. Section 3-30-7 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-29-7, as amended) is amended to read:

"3-30-7. CANVASS OF BOND ELECTION--CERTIFICATION OF RESULTS--EFFECT.--

A. The vote upon each question proposing to issue negotiable bonds shall be canvassed as provided in the Local Election Act, and the municipal clerk shall file the certificate of canvass in the official minute book of the municipality.

B. If a majority of those voting on the question favors the creation of the debt, the governing body of the municipality may proceed to issue the negotiable bonds."

## **Chapter 79 Section 67 Laws 2018**

SECTION 67. Section 3-31-4 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-30-4, as amended) is amended to read:



"3-31-4. ORDINANCE AUTHORIZING REVENUE BONDS--THREE-FOURTHS MAJORITY REQUIRED--RESOLUTION AUTHORIZING REVENUE BONDS TO BE ISSUED AND SOLD TO THE NEW MEXICO FINANCE AUTHORITY.--

A. At a regular or special meeting called for the purpose of issuing revenue bonds as authorized in Section 3-31-1 NMSA 1978, the governing body may adopt an ordinance that:

(1) declares the necessity for issuing revenue bonds;

(2) authorizes the issuance of revenue bonds by an affirmative vote of three-fourths of all the members of the governing body; and

(3) designates the source of the pledged revenues.

B. If a majority of the governing body, but less than three-fourths of all the members, votes in favor of adopting the ordinance authorizing the issuance of revenue bonds, the ordinance is adopted but shall not become effective until the question of issuing the revenue bonds is submitted to a vote of the qualified electors for their approval at a special or regular local election. If an election is necessary, the election shall be conducted in the manner provided in the Local Election Act.

C. In addition and as an alternative to adopting an ordinance as required by the provisions of Subsections A and B of this section, at a regular or special meeting called for the purpose of issuing revenue bonds as authorized in Section 3-31-1 NMSA 1978, the governing body may authorize the issuance and sale, from time to time, of revenue bonds in amounts not to exceed one million dollars (\$1,000,000) at any one time to the New Mexico finance authority by adoption of a resolution that:

(1) declares the necessity for issuing and selling revenue bonds to the New Mexico finance authority;

(2) authorizes the issuance and sale of revenue bonds to the New Mexico finance authority by an affirmative vote of a majority of all the members of the governing body; and

(3) designates the source of the pledged revenues.

At the option of the governing body, revenue bonds in an amount in excess of one million dollars (\$1,000,000) may be authorized by an ordinance adopted in accordance with Subsections A and B of this section and issued and sold to the New Mexico finance authority.

D. No ordinance or resolution may be adopted under the provisions of this section that uses as pledged revenues the municipal gross receipts tax authorized by Section 7-19D-9 NMSA 1978 for a purpose that would be inconsistent with the purpose

for which that municipal gross receipts tax revenue was dedicated. Any revenue in excess of the amount necessary to meet all principal and interest payments and other requirements incident to repayment of the bonds shall be used for the purposes to which the revenue was dedicated."

## **Chapter 79 Section 68 Laws 2018**

SECTION 68. Section 3-41-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-42-2, as amended) is amended to read:

"3-41-2. FLOOD CONTROL--TAX LEVY--LIMITATIONS--ELECTION--RESULT--BOND ISSUE MAY SUPPLEMENT--LEVY.--

A. A municipality may levy a tax upon all property subject to property taxation within the municipality for such length of time as is necessary to accomplish the purpose authorized in Sections 3-41-1 and 3-41-3 NMSA 1978. The rate of the tax authorized by this subsection shall not exceed five dollars (\$5.00), or any lower maximum amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon a tax levied under this section, on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code.

B. Before levying the tax, the municipality shall submit to the qualified electors of the municipality the question of levying the tax. The question may be submitted at any regular or special local election called for that purpose. Notice of the election shall be given as provided in the Local Election Act.

C. The municipality shall print the words "For tax levy for flood protection purposes" and "Against tax levy for flood protection purposes" or words of like import. The vote upon the question shall be separately canvassed as other municipal elections are canvassed.

D. If a majority of the votes cast favors the levy of the tax, the governing body shall levy and certify the levy as any other tax is levied for municipal purposes.

E. Nothing in this section shall be construed as prohibiting the issuance of negotiable bonds as authorized in Section 3-30-5 NMSA 1978 to pay the cost of preventing flood damage.

F. If a county has levied a tax for flood control purposes as authorized in Sections 4-50-1 through 4-50-9 NMSA 1978 or any other law, the municipality is not prohibited from levying a tax as authorized in this section."

## **Chapter 79 Section 69 Laws 2018**

SECTION 69. Section 3-54-1 NMSA 1978 (being Laws 1983, Chapter 115, Section 1, as amended) is amended to read:

"3-54-1. AUTHORITY TO SELL OR LEASE MUNICIPAL UTILITY FACILITIES OR REAL PROPERTY--NOTICE--REFERENDUM.--

A. A municipality may lease or sell and exchange any municipal utility facilities or real property having a value of twenty-five thousand dollars (\$25,000) or less by public or private sale or lease any municipal facility or real property of any value normally leased in the regular operations of such facility or real property, and such sale or lease shall not be subject to referendum.

B. A municipality may lease or sell and exchange any municipal utility facilities or real property having an appraised value in excess of twenty-five thousand dollars (\$25,000) by public or private sale or lease, subject to the referendum provisions set forth in this section. The value of municipal utility facilities or real property to be leased or sold and exchanged shall be determined by the appraised value of the municipal utility facilities or real property and not by the value of the lease. An appraisal shall be made by a qualified appraiser and submitted in writing to the governing body. If the sale price is less than the appraised value, the governing body shall cause a detailed written explanation of that difference to be prepared, and the written explanation shall be made available to any interested member of the public upon demand.

C. If a public sale is held, the bid of the highest responsible bidder shall be accepted unless the terms of the bid do not meet the published terms and conditions of the proposed sale, in which event the highest bid that does meet the published terms and conditions shall be accepted; provided, however, a municipality may reject all bids. Terms and conditions for a proposed public sale or lease shall be published at least twice, not less than seven days apart, with the last publication no less than fourteen days prior to the bid opening, and in accordance with the provisions of Subsection J of Section 3-1-2 NMSA 1978.

D. Any sale or lease of municipal utility facilities or real property entered into pursuant to Subsection B of this section shall be by ordinance of the municipality. Such an ordinance shall be effective forty-five days after its adoption, unless a referendum election is held pursuant to this section. The ordinance shall be published prior to adoption pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978 and Section 3-17-3 NMSA 1978 and shall be published after adoption at least once within one week after adoption pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978. Such publications shall concisely set forth at least:

- (1) the terms of the sale or lease;
- (2) the appraised value of the municipal utility facilities or real property;
- (3) the time and manner of payments on the lease or sale;

- (4) the amount of the lease or sale;
- (5) the identities of the purchasers or lessees; and
- (6) the purpose for the municipality making the lease or sale.

E. In order to call for a referendum election on a sale or lease ordinance, a petition shall be filed with the municipal clerk:

- (1) no later than thirty days after the adoption of the sale or lease ordinance;
- (2) containing the names, addresses and signatures of at least fifteen percent of the qualified electors of the municipality; and
- (3) containing the following heading on each page of the petition reprinted as follows:

"PETITION FOR A REFERENDUM

We, the undersigned registered voters of .....  
 (insert name of municipality) petition the governing body of .....  
 (insert name of municipality) to conduct a referendum election on ordinance number . . .  
 . . . . . Ordinance number . . . . . would cause a . . . . . (insert "sale" or  
 "lease") of municipal . . . . . (insert "real property" or "utility facilities").

Date    Name (printed)        Address        Signature".

F. Section 3-1-5 NMSA 1978 shall apply to all petitions filed calling for a referendum election on a sale or lease ordinance.

G. If the municipal clerk certifies to the municipal governing body that the petition does contain the minimum number of valid names, addresses and signatures required to call a referendum election on the sale or lease ordinance, the municipal governing body shall adopt an election resolution within fourteen days after the date the clerk makes such certification, calling for a referendum election on the sale or lease ordinance. The election resolution shall be adopted and published pursuant to the provisions of the Local Election Act and shall also concisely set forth:

- (1) the terms of the sale or lease;
- (2) the appraised value of the municipal utility facilities or real property;
- (3) the time and manner of payments on the lease or sale;

- (4) the amount of the lease or sale;
- (5) the identities of all purchasers or lessees; and
- (6) the purpose for the municipality making the lease or sale.

H. The referendum election on the sale or lease ordinance shall be held not later than ninety days after the election resolution is adopted. Such election shall be held at a special or regular local election and shall be conducted pursuant to the provisions of the Local Election Act. Any qualified elector of the municipality may vote in such a referendum election.

I. If a majority of the votes cast is to approve the sale or lease ordinance, the sale or lease ordinance shall be effective after the election results have been canvassed and certified. If a majority of the votes cast is to disapprove the sale or lease ordinance, the ordinance shall not be effective."

## **Chapter 79 Section 70 Laws 2018**

SECTION 70. Section 4-48A-16 NMSA 1978 (being Laws 1978, Chapter 29, Section 16, as amended) is amended to read:

"4-48A-16. SPECIAL TAX IMPOSED FOR SPECIAL HOSPITAL DISTRICT.--

A. In each special hospital district, the board of trustees may adopt a resolution calling for an election for the purpose of authorizing the imposition of an ad valorem tax on all taxable property within the special hospital district. The election shall be held pursuant to the Local Election Act. The revenue from such tax shall be used to pay for current operations and maintenance of hospitals, including hospital facilities owned and operated by the special hospital district or hospitals operated and maintained by the special hospital district pursuant to an agreement with a political subdivision as provided in Subsection B of Section 4-48A-11 NMSA 1978, and to pay the operational costs of the special hospital district.

B. In the case of a special hospital district located wholly within one county, if authorized by a majority of the qualified electors of the special hospital district voting on the question, the board of county commissioners of the county in which the special hospital district is located shall levy such tax at the same time and in the same manner as levies for ad valorem taxes for school districts are made and in the amount certified by the board of trustees as necessary to meet its approved annual budget, but in no event shall the tax levied exceed the rate limitation approved by the voters or the rate limitations provided in Subsection D of this section.

C. In the case of a special hospital district that is composed of all or a portion of two or more counties, if a majority of the qualified electors in the special hospital district of each county voting on the question authorizes a tax levy, the boards

of county commissioners of the counties that agreed to form the special hospital district shall levy such tax in the manner provided in Subsection B of this section.

D. The tax authorized in this section shall not exceed four dollars twenty-five cents (\$4.25), or any lower maximum amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon any tax imposed under this section, on each one thousand dollars (\$1,000) of net taxable value as that term is defined in the Property Tax Code, of all taxable property of the county within the hospital district for a period of time greater than four years. An election upon the question of continuing the levy may be called by the board of trustees pursuant to the Local Election Act."

## **Chapter 79 Section 71 Laws 2018**

SECTION 71. Section 4-48A-17 NMSA 1978 (being Laws 1978, Chapter 29, Section 17, as amended) is amended to read:

"4-48A-17. ELECTION PROCEDURES.--All elections of the special hospital district, unless otherwise provided in the Special Hospital District Act, shall be called, conducted and canvassed pursuant to the Local Election Act."

## **Chapter 79 Section 72 Laws 2018**

SECTION 72. Section 4-49-8 NMSA 1978 (being Laws 1891, Chapter 83, Section 4, as amended) is amended to read:

"4-49-8. ELECTION ON BOND QUESTION--PETITION--NOTICE--ELECTION WITHOUT PETITION.--

A. Whenever a petition signed by not less than two hundred qualified electors of any county in this state is presented to the board of county commissioners asking that a vote be taken on the question or proposition of building, remodeling or making additions to necessary public buildings or necessary public projects, setting forth in general terms the object of the petition and the amount of bonds asked to be voted for, the board of county commissioners of the county to which the petition is presented shall, within ten days after the presentation, call an election to be held within sixty days thereafter in the county. Except as provided in Chapter 4, Article 49 NMSA 1978, such elections shall be held and conducted pursuant to the provisions of the Local Election Act.

B. After the defeat of any proposition once voted for, a second special election upon any question or proposition under the provisions of Chapter 4, Article 49 NMSA 1978 shall not be held for a term of two years unless a petition requesting another election, containing the names of qualified electors of the county equal to ten percent of the votes cast for governor in the last preceding election and otherwise conforming to the requirements of this section, is presented to the board of county

commissioners; provided, however, that in no event shall more than two elections upon any proposition or question under Chapter 4, Article 49 NMSA 1978 be held in any term of two years. A bond election as provided in this section may also be called by the board of county commissioners, without any petition, after the board has adopted a resolution calling such an election, which resolution shall set forth the object of the election and the amount of bonds to be issued."

## **Chapter 79 Section 73 Laws 2018**

SECTION 73. Section 5-10-4 NMSA 1978 (being Laws 1993, Chapter 297, Section 4, as amended) is amended to read:

### **"5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--**

A. No local or regional government shall provide public support for economic development projects as permitted pursuant to Article 9, Section 14 of the constitution of New Mexico except as provided in the Local Economic Development Act or as otherwise permitted by law.

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act shall not exceed ten percent of the annual general fund expenditures of the local government in that fiscal year. The limits of this subsection shall not apply to:

(1) the value of any land or building contributed to any project pursuant to a project participation agreement;

(2) revenue generated through the imposition of the municipal infrastructure gross receipts tax pursuant to the Municipal Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(3) revenue generated through the imposition of a county infrastructure gross receipts tax pursuant to the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for

promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(4) the proceeds of a revenue bond issue to which municipal infrastructure gross receipts tax revenue is pledged;

(5) the proceeds of a revenue bond issue to which county infrastructure gross receipts tax revenue is pledged; or

(6) funds donated by private entities to be used for defraying the cost of a project.

C. A regional or local government that generates revenue for economic development projects to which the limits of Subsection B of this section do not apply shall create an economic development fund into which such revenues shall be deposited. The economic development fund and income from the economic development fund shall be deposited as provided by law. Money in the economic development fund may be expended only as provided in the Local Economic Development Act or the Statewide Economic Development Finance Act.

D. In order to expend money from an economic development fund for arts and cultural district purposes, cultural facilities or retail businesses, the governing body of a municipality or county that has imposed a municipal or county local option infrastructure gross receipts tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act by referendum of the majority of the voters voting on the question approving the ordinance imposing the municipal or county infrastructure gross receipts tax before July 1, 2013 shall be required to adopt a resolution. The resolution shall call for an election to approve arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity before any revenue generated by the municipal or county local option gross receipts tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act can be expended from the economic development fund for arts and cultural district purposes, cultural facilities or retail businesses.

E. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of approving arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity eligible to utilize revenue generated by the Municipal Local Option Gross Receipts Taxes Act or the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act.



F. The question shall be submitted to the voters of the municipality or county as a separate question at a regular local or county election or at a special election called for that purpose by the governing body. A special local election shall be called, conducted and canvassed as provided in the Local Election Act. A special county election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

G. If a majority of the voters voting on the question approves the ordinance adding arts and cultural districts and cultural facilities or retail businesses as an approved use of the local option municipal or county economic development infrastructure gross receipts tax fund, the ordinance shall become effective on July 1 or January 1, whichever date occurs first after the expiration of three months from the date of the adopted ordinance. The ordinance shall include the effective date."

## **Chapter 79 Section 74 Laws 2018**

SECTION 74. Section 6-6-19 NMSA 1978 (being Laws 1989, Chapter 276, Section 3, as amended) is amended to read:

### **"6-6-19. LOCAL GOVERNMENT PERMANENT FUND.--**

A. The local governing body of a county or municipality may by ordinance establish a local government permanent fund and a local government income fund.

B. The local government permanent fund shall constitute a fund in the treasury of the county or municipality into which may be deposited at the end of a fiscal year an amount of the unappropriated general fund surplus. The amount that may be deposited into the local government permanent fund is any portion of the unappropriated general fund surplus that is in excess of fifty percent of the prior fiscal year's budget of the county or municipality. Money in the permanent fund may be appropriated or expended only pursuant to approval of the voters of the county or municipality as provided in Subsection E of this section.

C. Money in the local government permanent fund may be invested by the local board of finance for the county or municipality in the types of investments specified in Section 6-10-10 NMSA 1978 and as specified in Sections 6-10-36 and 6-10-44 NMSA 1978, except as provided in Paragraph (2) of Subsection D of this section. Earnings from the investment of the permanent fund shall be deposited in the local government income fund in the treasury of the county or municipality. Money in the income fund may be budgeted and appropriated by the local governing body for expenditure for any purpose of the county or municipality or may be deposited in the permanent fund.

D. Investment authority for a local government permanent fund shall be as follows:

(1) if the fund is less than forty million dollars (\$40,000,000), it shall be invested as other funds of the local government; and

(2) if the fund is forty million dollars (\$40,000,000) or over, it may be invested as funds of class A counties are invested and, if the fund is managed by an investment advisor that is registered with the federal securities and exchange commission and that currently manages assets with a value of at least five hundred million dollars (\$500,000,000), the fund may also be invested in the following:

(a) corporate debt securities, provided that: 1) the total amount invested in securities issued by the same corporation or related corporate affiliates shall not exceed five percent of the market value of the permanent fund; 2) the securities shall be denominated in United States currency; 3) the securities shall be rated AA- or higher by a nationally recognized statistical rating organization; 4) the final maturity of the securities may not exceed five years; and 5) the total amount invested pursuant to this subparagraph and Subparagraph (b) of this paragraph in the aggregate shall not exceed thirty percent of the market value of the permanent fund;

(b) commercial paper, provided that: 1) the total amount invested in securities issued by the same corporation or related corporate affiliates shall not exceed five percent of the market value of the permanent fund; 2) the securities shall be denominated in United States currency; 3) the securities shall be rated in the highest rating category by a nationally recognized statistical rating organization; 4) the final maturity of the securities may not exceed two hundred seventy days; and 5) the total amount invested pursuant to this subparagraph and Subparagraph (a) of this paragraph in the aggregate shall not exceed thirty percent of the market value of the permanent fund; and

(c) asset-backed securities, mortgage-backed securities, collateralized mortgage obligations or commercial mortgage-backed securities, provided that: 1) the total amount invested pursuant to this subparagraph shall not exceed five percent of the market value of the permanent fund; 2) the securities shall be denominated in United States currency; 3) the securities shall be rated AAA by a nationally recognized statistical rating organization; and 4) the final stated maturity of the securities may not exceed ten years.

E. The governing body of a county or municipality may adopt a resolution calling for an election on the question of expenditure of any amount of the local government permanent fund for a specified county or municipal purpose. The election shall be held within sixty days after the action of the governing body. The election shall be called, conducted, counted and canvassed substantially in the manner provided by law for general elections within the county or special municipal elections under the Local Election Act. If a majority of the registered voters of the county or municipality voting on the question votes for the expenditure of a specified amount of the local government permanent fund for a specified county or municipal purpose, then that amount of money shall be available for appropriation and expenditure by the county or municipality for that

purpose. If a majority of the registered voters of the county or municipality voting on the question votes against the expenditure of a specified amount of the local government permanent fund for a specified county or municipal purpose, then money in the local government permanent fund shall not be expended or appropriated for that purpose. Following an election at which the question was not approved, the question shall not again be submitted to the voters of that county or municipality within one year of the date of that election."

## **Chapter 79 Section 75 Laws 2018**

SECTION 75. Section 6-15-26 NMSA 1978 (being Laws 1971, Chapter 132, Section 3, as amended) is amended to read:

"6-15-26. BOND ELECTIONS.--

A. Each proposition to issue bonds shall be submitted by a single set of ballots to all voters of the municipality, school district, county, junior college district or branch community college district, but the Bond Election Act does not prevent the submission of more than one proposition on the same ballot.

B. Except as expressly provided in the Bond Election Act, any bond election shall be called, conducted and canvassed pursuant to applicable statutes governing elections for the bonds; provided, however, absentee ballot provisions in the Election Code governing regular elections of the board shall apply. A bond election called by a municipality shall be called, conducted and canvassed pursuant to the applicable provisions of the Local Election Act, and the absentee ballot provisions of the Local Election Act shall apply."

## **Chapter 79 Section 76 Laws 2018**

SECTION 76. Section 7-19D-9 NMSA 1978 (being Laws 1978, Chapter 151, Section 1, as amended) is amended to read:

"7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE.--

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax not to exceed a rate of one and one-half percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of municipal gross receipts tax rate increments, but the total municipal gross receipts tax rate imposed by all ordinances shall not exceed an aggregate rate of one and one-half percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal gross receipts tax".

C. The governing body of a municipality may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of municipal government services, including police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and, if any election is held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which dedicated or to place the revenue in the general fund of the municipality.

D. An election shall be called on the questions of disapproval or approval of any ordinance enacted pursuant to Subsection A of this section or any ordinance amending such ordinance:

(1) if the governing body chooses to provide in the ordinance that it shall not be effective until the ordinance is approved by the majority of the registered voters voting on the question at an election to be held pursuant to the provisions of the Local Election Act; or

(2) if the ordinance does not contain a mandatory election provision as provided in Paragraph (1) of this subsection, upon the filing of a petition requesting such an election if the petition is filed:

(a) pursuant to the requirements of a referendum provision contained in a municipal home-rule charter and signed by the number of registered voters in the municipality equal to the number of registered voters required in its charter to seek a referendum; or

(b) in all other municipalities, with the municipal clerk within thirty days after the adoption of such ordinance and the petition has been signed by a number of registered voters in the municipality equal to at least five percent of the number of the voters in the municipality who were registered to vote in the most recent regular municipal election.

E. The signatures on the petition filed in accordance with Subsection D of this section shall be verified by the municipal clerk. If the petition is verified by the municipal clerk as containing the required number of signatures of registered voters, the governing body shall adopt an election resolution calling for the holding of a special election on the question of approving or disapproving the ordinance unless the ordinance is repealed before the adoption of the election resolution. An election held pursuant to Subparagraph (a) or (b) of Paragraph (2) of Subsection D of this section shall be called, conducted and canvassed as provided in the Local Election Act, and the election shall be held within seventy-five days after the date the petition is verified by

the municipal clerk or it may be held in conjunction with a regular local election if such election occurs within seventy-five days after the date of verification by the municipal clerk.

F. If at an election called pursuant to Subsection D of this section a majority of the registered voters voting on the question approves the ordinance imposing the tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the ordinance imposing the tax shall be deemed repealed and the question of imposing any increment of the municipal gross receipts tax authorized in this section shall not be considered again by the governing body for a period of one year from the date of the election.

G. Any municipality that has lawfully imposed by the requirements of the Special Municipal Gross Receipts Tax Act a rate of at least one-fourth of one percent shall be deemed to have imposed one-fourth of one percent municipal gross receipts tax pursuant to this section. Any rate of tax deemed to be imposed pursuant to this subsection shall continue to be dedicated to the payment of outstanding bonds issued by the municipality that pledged the tax revenues by ordinance until such time as the bonds are fully paid. A municipality may by ordinance change the purpose for any rate of tax deemed to be imposed at any time the revenues are not committed to payment of bonds.

H. Any law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

## **Chapter 79 Section 77 Laws 2018**

SECTION 77. Section 7-19D-11 NMSA 1978 (being Laws 1991, Chapter 9, Section 3, as amended) is amended to read:

"7-19D-11. MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX--  
AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE REQUIREMENTS--  
ELECTION.--

A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. The rate of the tax shall not exceed one-fourth of one percent of the gross receipts of the person engaging in business and may be imposed in one-sixteenth of one percent increments by separate

ordinances. Any ordinance enacting any increment of the first one-eighth of one percent of the tax is not subject to a referendum of any kind, notwithstanding any requirement of any charter municipality, except that an increment that is imposed after July 1, 1998 for economic development purposes set forth in Paragraph (5) of Subsection C of this section shall be subject to a referendum as provided in Subsection D of this section.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal infrastructure gross receipts tax".

C. The governing body of a municipality, at the time of enacting any ordinance imposing the rate of the tax authorized in Subsection A of this section, may dedicate the revenue for:

(1) payment of special obligation bonds issued pursuant to a revenue bond act;

(2) repair, replacement, construction or acquisition of infrastructure improvements, including sanitary sewer lines, storm sewers and other drainage improvements, water, water rights, water lines and utilities, streets, alleys, rights of way, easements, international ports of entry and land within the municipality or within the extraterritorial zone of the municipality;

(3) municipal general purposes;

(4) acquiring, constructing, extending, bettering, repairing or otherwise improving or operating or maintaining public transit systems or regional transit systems or authorities; and

(5) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act, and use of not more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing any increment of the municipal infrastructure gross receipts tax in excess of the first one-eighth of one percent or any increment imposed after July 1, 1998 for economic development purposes set forth in Paragraph (5) of Subsection C of this section shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular local election or at a special election called for that purpose by the governing body. An election shall be called, conducted and canvassed

as provided in the Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the municipal infrastructure gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal infrastructure gross receipts tax fails, the governing body shall not again propose the imposition of any increment of the tax in excess of the first one-eighth of one percent for a period of one year from the date of the election."

## **Chapter 79 Section 78 Laws 2018**

SECTION 78. Section 7-19D-15 NMSA 1978 (being Laws 2006, Chapter 15, Section 14) is amended to read:

"7-19D-15. MUNICIPAL REGIONAL SPACEPORT GROSS RECEIPTS TAX--  
AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

A. A majority of the members of the governing body of a municipality that desires to become a member of a regional spaceport district pursuant to the Regional Spaceport District Act shall impose by ordinance an excise tax at a rate not to exceed one-half percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. A tax imposed pursuant to this section may be imposed by one or more ordinances, each imposing any number of tax rate increments, but an increment shall not be less than one-sixteenth percent of the gross receipts of a person engaging in business in the municipality, and the aggregate of all rates shall not exceed one-half percent of the gross receipts of a person engaging in business in the municipality. The tax may be referred to as the "municipal regional spaceport gross receipts tax".

B. A governing body, at the time of enacting an ordinance imposing a tax authorized in Subsection A of this section, shall dedicate a minimum of seventy-five percent of the revenue to a regional spaceport district for the financing, planning, designing, engineering and construction of a regional spaceport pursuant to the Regional Spaceport District Act and may dedicate no more than twenty-five percent of the revenue for spaceport-related projects as approved by resolution of the governing body of the municipality.

C. An ordinance imposing a municipal regional spaceport gross receipts tax shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular local election or at a special election called for that purpose by the governing body. An election shall be called, conducted and canvassed as provided in the Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the municipal regional spaceport gross receipts tax, the ordinance shall become effective in

accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal regional spaceport gross receipts tax fails, the governing body shall not again propose the imposition of an increment of the tax for a period of one year from the date of the election.

D. The governing body of a municipality imposing the municipal regional spaceport gross receipts tax shall transfer a minimum of seventy-five percent of all proceeds from the tax to the regional spaceport district of which it is a member for regional spaceport purposes in accordance with the provisions of the Regional Spaceport District Act. The governing body of a municipality imposing the municipal regional spaceport gross receipts tax may retain no more than twenty-five percent of the municipal regional spaceport gross receipts tax for spaceport-related projects as approved by resolution of the governing body."

## **Chapter 79 Section 79 Laws 2018**

SECTION 79. Section 7-19D-17 NMSA 1978 (being Laws 2012, Chapter 58, Section 1) is amended to read:

"7-19D-17. FEDERAL WATER PROJECT GROSS RECEIPTS TAX--  
AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. The rate of the tax shall not exceed one-fourth percent of the gross receipts of the person engaging in business. An ordinance enacting the tax authorized by this section is subject to a positive referendum.

B. The tax imposed pursuant to this section may be referred to as the "federal water project gross receipts tax".

C. The governing body of a municipality, at the time of enacting an ordinance imposing the rate of the tax authorized in this section, shall dedicate the revenue for the repayment of loan obligations to the federal government for the construction, expansion, operation and maintenance of a water delivery system and for the expansion, operation and maintenance of that water delivery system after the loan obligation to the federal government is retired or repaid. The revenue from the federal water project gross receipts tax shall not be dedicated to repay revenue bonds or any other form of bonds.

D. An ordinance imposing the federal water project gross receipts tax shall not go into effect until an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the



voters of the municipality as a separate question at a regular local election or at a special election called for that purpose by the governing body. An election shall be called, conducted and canvassed as provided in the Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the federal water project gross receipts tax, then the ordinance shall become effective on January 1 or July 1 in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the federal water project gross receipts tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

E. A municipality that imposed a federal water project gross receipts tax pursuant to this section shall not also impose a municipal capital outlay gross receipts tax.

F. As used in this section, "municipality" means an incorporated municipality that has a population pursuant to the most recent federal decennial census of greater than twenty thousand but less than twenty-five thousand and is located in a class B county."

## **Chapter 79 Section 80 Laws 2018**

SECTION 80. Section 7-24A-11 NMSA 1978 (being Laws 1978, Chapter 182, Section 11, as amended) is amended to read:

"7-24A-11. MUNICIPAL GASOLINE TAX--PROCEDURE FOR ADOPTION OF ORDINANCE--ELECTION.--

A. The ordinance imposing a municipal gasoline tax shall not go into effect until after an election is held and a simple majority of the qualified electors of the municipality voting on the question votes in favor of imposing the municipal gasoline tax. The governing body of the municipality shall provide for an election on the question of imposing the municipal gasoline tax within sixty days after the day the ordinance is adopted. Such question may be submitted to the electors and voted upon as a separate question at any regular or special election or at any special election called for that purpose by the governing body. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for special elections as provided in the Local Election Act. If the question of imposing a municipal gasoline tax fails, the governing body shall not again propose a municipal gasoline tax ordinance for a period of one year after the election.

B. After passage of a municipal gasoline tax ordinance, the governing body of the municipality shall submit a certified copy of the ordinance to the taxation and revenue department."

## **Chapter 79 Section 81 Laws 2018**

SECTION 81. Section 10-3-1 NMSA 1978 (being Laws 1909, Chapter 36, Section 3, as amended) is amended to read:

"10-3-1. CIRCUMSTANCES CAUSING VACANCY IN LOCAL OFFICE.--Any office belonging to the class mentioned in Section 10-4-1 NMSA 1978 becomes vacant under any of the following circumstances:

- A. by death of the party in office;
- B. removal of the officer as provided by Sections 10-4-1 through 10-4-29 NMSA 1978;
- C. failure of the officer to qualify as provided by law;
- D. expiration of the term of office when no successor has been chosen as provided by law;
- E. when the officer removes from the area from which the officer was elected to represent and, in case of an officer serving pursuant to an appointment, when the officer removes from the area the officer was appointed to represent;
- F. absence from the political subdivision in which the officer serves for six consecutive months; but this provision does not apply to those officers wherein the law provides that the duties may be discharged by a deputy, when such absence is due to illness or other unavoidable cause;
- G. by resignation of the officer; or
- H. by an officer accepting and undertaking to discharge the duties of another incompatible office."

## **Chapter 79 Section 82 Laws 2018**

SECTION 82. Section 10-4-1 NMSA 1978 (being Laws 1909, Chapter 36, Section 1, as amended) is amended to read:

"10-4-1. LOCAL OFFICERS SUBJECT TO REMOVAL.--Any officer of a political subdivision of the state elected by the people and any officer appointed to fill out the unexpired term of any such officer may be removed from office on any of the grounds mentioned in and according to the provisions of Sections 10-4-1 through 10-4-29 NMSA 1978."

## **Chapter 79 Section 83 Laws 2018**

SECTION 83. Section 21-13-8 NMSA 1978 (being Laws 1963, Chapter 17, Section 7, as amended) is amended to read:

"21-13-8. COMMUNITY COLLEGE BOARD.--

A. Community college board members shall be qualified electors and residents of the community college district.

B. Community college board members shall be elected for staggered terms of six years. Elections shall be held pursuant to the Local Election Act.

C. All vacancies caused in any other manner than by the expiration of the term of office shall be filled by appointment by the remaining members. An individual appointed by the remaining members of the board to fill a vacancy in office shall serve until the next community college board election, at which time candidates shall file for and be elected to fill the vacant position to serve the remainder of the unexpired term.

D. A community college board shall select from its members a chair and secretary who shall serve in these offices until the next regular community college board election. After each community college board election, the members shall proceed to reorganize."

## **Chapter 79 Section 84 Laws 2018**

SECTION 84. Section 21-16-5.1 NMSA 1978 (being Laws 1994, Chapter 83, Section 3, as amended) is amended to read:

"21-16-5.1. BOARD MEMBERS--ELECTED FROM DISTRICTS--ELECTIONS.--

A. A district board shall be composed of five or seven members elected for four-year terms who shall reside in and be elected from single-member districts as provided in this section. If the board is a seven-member board, board members shall be elected for all seven positions on the board, with the board members elected to positions 1, 3, 5 and 7 to be elected for initial terms of two years and the board members elected to positions 2, 4 and 6 to be elected for initial terms of four years. If the board is a five-member board, board members elected to positions 1, 3 and 5 shall be elected for initial terms of two years and board members elected to positions 2 and 4 shall be elected for initial terms of four years. After the initial election for a district board, each board member shall be elected for a term of four years.

B. All election proceedings for technical and vocational institute district elections shall be conducted pursuant to the provisions of the Local Election Act.

C. Once following each federal decennial census, the board shall redistrict the technical and vocational institute district into election districts to ensure that the districts remain as equal in population as is practicable and shall notify the county clerk of the new boundaries upon completion of the redistricting process. The new districts shall go into effect at the first regular board election thereafter. Candidates for the new single-member districts that are scheduled to be voted on at the election shall reside in

and be elected from the appropriate new single-member district. Incumbent board members whose districts before redistricting were not scheduled to be voted on at the election need not reside in the new single-member districts corresponding to their position numbers and may serve out their terms. At the second regular board election held after the redistricting, all candidates for the new single-member districts that are scheduled to be voted on shall reside in and be elected from the appropriate single-member district.

D. All election districts covered by this section shall be contiguous, compact and as equal in population as is practicable.

E. A vacancy occurring on the board shall be filled in the same manner as provided for school board vacancies in Section 22-5-9 NMSA 1978; provided, however, that a vacancy that occurs in an election district where a nonresident board member had been serving shall be filled by a resident of that district."

## **Chapter 79 Section 85 Laws 2018**

SECTION 85. Section 21-16-14 NMSA 1978 (being Laws 1963, Chapter 108, Section 11, as amended) is amended to read:

"21-16-14. ADDITION OF SCHOOL DISTRICTS OR PORTIONS OF SCHOOL DISTRICTS TO EXISTING TECHNICAL AND VOCATIONAL INSTITUTE DISTRICTS.--

A. A technical and vocational institute district may be expanded by either the procedure in Subsections B, C and D of this section or the procedure in Subsections E and F of this section.

B. The qualified voters of a school district, portion of a school district, group of school districts within a county containing a technical and vocational institute district or in an adjoining county, not included in the technical and vocational institute district as originally formed, may petition the public education department to be added to the technical and vocational institute district. The department shall examine the petition, and if it finds that the petition is signed by a number of qualified voters residing within the pertinent school district or portion of a school district equal to ten percent of the votes cast for governor in such school district or portion of such school district in the last preceding general election, the department shall cause a survey to be made of the petitioning district or districts to determine the desirability of the proposed expansion of the technical and vocational institute district.

C. In conducting the survey, the public education department, in conjunction with the higher education department, shall ascertain the attitude of the technical and vocational institute board and collect other information it deems necessary. If, on the basis of the survey, the public education department finds that the proposed addition of the petitioning area will promote an improved education service in the area, it shall approve the petition. The secretary of public education shall proceed to

issue a proclamation and call an election pursuant to the provisions of the Local Election Act within the petitioning area and in the established technical and vocational institute district on the question of the inclusion of the petitioning area in the institute district.

D. If a majority of the votes cast in the petitioning area and a majority of the votes cast within the established institute district are in favor of the addition of the area, the public education department shall notify the local school board of each affected school district and the technical and vocational institute board of the results of the election and shall declare the extension of the boundaries of the institute district to include the petitioning area in which the proposed addition referendum carried by a majority vote.

E. If a technical and vocational institute district includes less than all of a school district, the institute board, by resolution of a majority of the members of the board, may call an election within the institute district and in the portion of the school district that is not included in the institute district on the question of the addition of the excluded portion of the school district to the established institute district. Such election shall be conducted pursuant to the provisions of the Local Election Act.

F. If a majority of the votes cast in the institute district and the portion of the school district that is outside the institute district are in favor of the addition of the excluded portion of the school district to the institute district, the board of the institute district shall declare the institute district to be expanded to include all of such school district.

G. Each area added to an existing technical and vocational institute district shall automatically be subject to any special levy on taxable property approved for the institute district for the maintenance of facilities and services and for support of bond issues."

## **Chapter 79 Section 86 Laws 2018**

SECTION 86. Section 21-16-20 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 12, Section 5) is amended to read:

"21-16-20. SUBMISSION AT ELECTION--NOTICE--CERTIFICATION.--If a question is submitted pursuant to Section 21-16-16 NMSA 1978 at an election, the submitting board shall notify the county clerk pursuant to the Local Election Act. The submitting board shall furnish to the county clerk of each county in which an affected school district is situate a certificate specifying the question to be submitted."

## **Chapter 79 Section 87 Laws 2018**

SECTION 87. Section 21-16A-6 NMSA 1978 (being Laws 2000, Chapter 105, Section 6) is amended to read:

"21-16A-6. LEARNING CENTER TAX LEVY AUTHORIZED--ELECTION.--

A. A board may adopt a resolution authorizing, for learning center operational purposes, the imposition of a property tax upon the taxable value of property in the district. The total tax imposition that may be authorized under the Learning Center Act shall not exceed a rate of five dollars (\$5.00) on each one thousand dollars (\$1,000) of taxable value of property in each district. The tax authorized pursuant to this section may not be imposed for a period of more than six years.

B. The tax authorized in Subsection A of this section shall not be imposed in a district unless the question of authorizing the imposition of the tax is submitted to the voters of the district at an election held pursuant to the Local Election Act.

C. A resolution adopted pursuant to Subsection A of this section shall specify:

(1) the rate of the proposed tax;

(2) the date of the election at which the question of imposition of the tax will be submitted to the voters of the district;

(3) the period of time the tax is authorized to be imposed; and

(4) the proposed use of the revenues from the proposed tax.

D. The election required by this section shall be called, conducted and canvassed as provided in the Local Election Act.

E. If a majority of the voters voting on the question votes for a learning center tax levy pursuant to a resolution adopted under the Learning Center Act, the tax shall be imposed. The tax rate shall be certified by the department of finance and administration and imposed, administered and collected in accordance with the provisions of the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act, the Copper Production Ad Valorem Tax Act and the Property Tax Code.

F. If a majority of the voters voting on the question votes against a learning center tax levy pursuant to a resolution adopted under the Learning Center Act, the tax shall not be imposed. The board shall not again adopt a resolution authorizing the imposition of a tax levy pursuant to the Learning Center Act for at least two years after the date of the resolution that the voters rejected.

G. The board may discontinue by resolution the imposition of any tax authorized pursuant to the Learning Center Act. The discontinuance resolution shall be mailed to the department of finance and administration no later than June 15 of the year in which a tax rate pursuant to that act is not to be certified."

## **Chapter 79 Section 88 Laws 2018**

SECTION 88. Section 22-5-8 NMSA 1978 (being Laws 1967, Chapter 16, Section 31, as amended) is amended to read:

"22-5-8. TERM OF OFFICE.--

A. The full term of office of a member of a local school board shall be four years succeeding the member's election to office at a regular local election held pursuant to the Local Election Act.

B. Any member of a local school board whose term of office has expired shall continue in that office until a successor is elected and qualified."

## **Chapter 79 Section 89 Laws 2018**

SECTION 89. Section 22-7-1 NMSA 1978 (being Laws 1977, Chapter 308, Section 1) is amended to read:

"22-7-1. SHORT TITLE.--Chapter 22, Article 7 NMSA 1978 may be cited as the "Local School Board Member Recall Act"."

## **Chapter 79 Section 90 Laws 2018**

SECTION 90. 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 local special election.

D. Except as otherwise provided in the Local School Board Member Recall Act, special recall elections in a school district shall be conducted pursuant to the provisions of the Local Election Act.

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".

## **Chapter 79 Section 91 Laws 2018**

SECTION 91. Section 22-18-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 229, as amended) is amended to read:

"22-18-2. BOND ELECTIONS--QUALIFICATION OF VOTERS--CALLING FOR BOND ELECTIONS.--

A. Before any general obligation bonds are issued, a local school board of a school district shall submit to a vote of the qualified electors of the school district the question of creating a debt by issuing the bonds, and a majority of those persons voting on the question shall vote for issuing the general obligation bonds.

B. The election on the question of creating a debt by issuing general obligation bonds shall be held pursuant to the provisions of the Local Election Act. The question shall be submitted to a vote at a district election upon the initiative of a local school board or upon a petition being filed with a local school board signed by qualified electors of the school district. The number of signatures required on the petition shall be at least ten percent of the number of votes cast for governor in the school district in the last preceding general election. For the purpose of determining the number of votes cast for governor in the school district at the last preceding general election, any portion of a voting division within the school district shall be construed to be wholly within the school district. A local school board shall call for a bond election at the next regular local or special election within ninety days following the date a properly signed petition is filed with it; provided that the timing of the election does not conflict with the provisions of Section 1-12-71 NMSA 1978."

## **Chapter 79 Section 92 Laws 2018**

SECTION 92. Section 22-18-4 NMSA 1978 (being Laws 1967, Chapter 16, Section 231, as amended) is amended to read:

"22-18-4. BOND ELECTIONS--CONDUCT.--

A. A person is required to be a registered qualified elector to vote in a bond election in a school district.

B. Bond elections in a school district shall be conducted pursuant to the Local Election Act."

## **Chapter 79 Section 93 Laws 2018**



SECTION 93. Section 22-18-8 NMSA 1978 (being Laws 1967, Chapter 16, Section 235) is amended to read:

"22-18-8. RESTRICTION ON BOND ELECTIONS.--In the event a majority of those persons voting on a question submitted to the voters in a bond election votes against creating a debt by issuing general obligation bonds, no bond election shall be held on the same question for a period of two years from the date of the bond election."

### **Chapter 79 Section 94 Laws 2018**

SECTION 94. Section 22-25-5 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 5, as amended) is amended to read:

"22-25-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

A. An election on the question of imposing a tax under the Public School Capital Improvements Act shall be held as prescribed in the Local Election Act.

B. The proclamation required to be published as notice of the election under Section 1-22-11 NMSA 1978 shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for the capital improvements specified in the authorizing resolution.

C. The ballot shall include the information specified in Subsection B of this section and shall present the voter the choice of voting "for the public school capital improvements tax" or "against the public school capital improvements tax".

### **Chapter 79 Section 95 Laws 2018**

SECTION 95. Section 22-26-5 NMSA 1978 (being Laws 1983, Chapter 163, Section 5, as amended) is amended to read:

"22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

A. An election on the question of imposing a tax under the Public School Buildings Act shall be held as prescribed in the Local Election Act.

B. The resolution required to be published as notice of the election under Section 1-22-11 NMSA 1978 shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for capital improvements.

C. The ballot shall include the information specified in Subsection B of this section and shall present the voter the choice of voting "for the public school buildings tax" or "against the public school buildings tax".

## **Chapter 79 Section 96 Laws 2018**

SECTION 96. Section 22-26A-10 NMSA 1978 (being Laws 2007, Chapter 173, Section 10, as amended) is amended to read:

"22-26A-10. CONDUCT OF ELECTION--NOTICE--BALLOT.--

A. An election on the question of imposing a tax under Sections 22-26A-8 through 22-26A-12 NMSA 1978 shall be held as prescribed in the Local Election Act.

B. The resolution required to be published as notice of the election under Section 1-22-11 NMSA 1978 shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding thirty years upon the net taxable value of all property allocated to the school district for payments due under lease purchase arrangements.

C. The ballot shall include the information specified in Subsection B of this section and shall present the voter the choice of voting "for the lease purchase tax" or "against the lease purchase tax".

## **Chapter 79 Section 97 Laws 2018**

SECTION 97. Section 22-26A-11 NMSA 1978 (being Laws 2007, Chapter 173, Section 11) is amended to read:

"22-26A-11. ELECTION RESULTS--CERTIFICATION.--The certification of the results of an election held on the question of imposition of a lease purchase tax shall be made in accordance with the Local Election Act, and a copy of the certificate of results shall be mailed immediately to the secretary."

## **Chapter 79 Section 98 Laws 2018**

SECTION 98. Section 60-5A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 15, as amended) is amended to read:

"60-5A-1. ELECTIONS FOR LOCAL OPTION.--Any municipality containing over five thousand persons according to the latest United States census, whether the county in which that municipality is situated has adopted the local option provisions of the Liquor Control Act or any former act or not, or any county in the state may adopt local option in the county or municipality upon the following terms and conditions:

A. at any time after the effective date of the Liquor Control Act, the registered qualified electors of a proposed local option district may petition the governing body by filing one or more petitions in the appropriate office to hold an election for the purpose of determining whether the county or municipality shall adopt the local option provisions of the Liquor Control Act. If the aggregate of the signatures of such electors on all the petitions equals or exceeds five percent of the number of registered voters of the district, the governing body shall call an election within seventy-five days of the verification of the petition. The date of the filing of the petition shall be the date of the filing of the last petition that brings the number of signatures up to the required five percent; provided, however, that the governing body shall refuse to recognize the petition if more than three months have elapsed between the date of the first signature and the filing of the last petition necessary to bring the number of signatures on the petition up to five percent;

B. the election shall be called, conducted, counted and canvassed substantially in the manner provided by law for general elections within the county or special elections within the municipality, except as otherwise provided in this section;

C. the votes at the election shall be counted, returned and canvassed as provided for in the case of general elections within the county or special elections within the municipality;

D. except as otherwise provided in this section, contests, recounts and rechecks shall be permitted as provided for in the case of candidates for county office in general elections or as provided for in the case of special elections within the municipality. Applications for contests, recounts or rechecks may be filed by any person who voted in the election, and service shall be made upon the county clerk or municipal clerk as the case may be;

E. if a majority of all the votes cast at the election is cast in favor of the sale, service or public consumption of alcoholic beverages in the county or municipality, the chair of the governing body shall declare by order entered upon the records of the county or municipality that the county or municipality has adopted the local option provisions of the Liquor Control Act and shall notify the department of the results;

F. no election held pursuant to this section shall be held within forty-two days of a primary or general election. If within sixty days from the verification of a petition as provided in Subsection A of this section a primary or general election is held, the governing body may call an election for a day not less than sixty days after the primary or general election;

G. if an election is held under the provisions of the Liquor Control Act in a county that contains within its limits a municipality of more than five thousand persons according to the latest United States census, it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of adopting the local option provisions of the Liquor

Control Act by the municipality. The election in the county shall be conducted so as to separate the votes in the municipality from those in the remaining parts of the county. If a majority of the voters in the county, including the voters in the municipality, votes against the sale, service or public consumption of alcoholic beverages in the county, the county shall not adopt the local option provisions of the Liquor Control Act; but if a majority of the votes in the municipality is in favor of the sale, service or public consumption of alcoholic beverages, the municipality shall have adopted the local option provisions of the Liquor Control Act. Nothing contained in this subsection shall prevent any municipality from having a separate election under the terms of this section;

H. a county or municipality composing a local option district under the provisions of the Liquor Control Act or a former act may vote to discontinue the sale, service or public consumption of alcoholic beverages in the local option district; the discontinuance shall become effective on the ninetieth day after the local option election is held; and

I. nothing in this section shall invalidate any local option election held pursuant to any former act prior to July 1, 1981."

## **Chapter 79 Section 99 Laws 2018**

SECTION 99. Section 60-7A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 47, as amended by Laws 2017, Chapter 9, Section 1 and by Laws 2017, Chapter 49, Section 1) is amended to read:

"60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--CHRISTMAS DAY SALES--SALES FOR CONSUMPTION OFF THE LICENSED PREMISES--ELECTIONS.--

A. Provided that nothing in this section shall prohibit the consumption at any time of alcoholic beverages in guest rooms of hotels, alcoholic beverages shall be sold, served and consumed on licensed premises only during the following hours and days:

(1) on Mondays from 7:00 a.m. until midnight;

(2) on Tuesdays through Saturdays from after midnight of the previous day until 2:00 a.m., then from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section; and

(3) on Sundays only after midnight of the previous day until 2:00 a.m., except as provided in Subsections D and F of this section and Section 60-7A-2 NMSA 1978.

B. Except as provided in Subsection C of this section, alcoholic beverages may be sold by a dispenser or a retailer in unbroken packages, for consumption off the

licensed premises and not for resale, only on Mondays through Saturdays from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section.

C. The governing body of a local option district that is a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census or that is a municipality located within a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census may pass an ordinance to place restrictions, in addition to those provided in this section, on the hours during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale. The ordinance may restrict sales between 7:00 a.m. and 10:00 a.m. and shall provide the hours between 7:00 a.m. and 10:00 a.m., if any, during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale.

D. A dispenser, restaurant licensee or club may, upon payment of an additional fee of one hundred dollars (\$100), obtain a permit to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises on Sundays, subject to approval obtained pursuant to the process set forth in Subsection F of this section. Alcoholic beverages may be sold, served and consumed from 11:00 a.m. until midnight as set forth in the licensee's Sunday sales permit, and in those years when December 31 falls on a Sunday, from 11:00 a.m. until 2:00 a.m. of the following day, except as otherwise provided for a restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday sales permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to this subsection or Subsection H of this section shall be called "Sunday sales".

E. Retailers, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or their lessees shall not sell, serve, deliver or allow the consumption of alcoholic beverages on the licensed premises from 2:00 a.m. on Christmas day until 7:00 a.m. on the day after Christmas, except as permitted pursuant to Subsection G of this section.

F. Sunday sales pursuant to the provisions of Subsection D of this section are permitted in a local option district that voted to permit them. If in that election a majority of the voters in a local option district voted "no" on the question "Shall Sunday sales of alcoholic beverages by the drink for consumption on the licensed premises of licensees be allowed in this local option district?", Sunday sales are unlawful in that local option district upon certification of the election returns unless the provisions of Subsection K of this section apply. The question shall not again be placed on the ballot in that local option district until:

(1) at least one year has passed; and

(2) a petition is filed with the local governing body bearing the signatures of registered qualified electors of the local option district equal in number to ten percent of the number of votes cast and counted in the local option district for governor in the last preceding general election in which a governor was elected. The signatures on the petition shall be verified by the clerk of the county in which the local option district is situated.

G. On and after July 1, 2002, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or lessees of these licensees, provided that the licensees have current, valid food service establishment permits, may sell, serve or allow the consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, except in a local option district in which, pursuant to petition and election under this subsection, a majority of the voters voting on the question votes against continuing such sales or consumption on Christmas day. An election shall be held on the question of whether to continue to allow the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day in a local option district, if a petition requesting the governing body of that district to call the election is signed by at least ten percent of the registered voters of the district and is filed with the clerk of the governing body of the district. Upon verification by the clerk that the petition contains the required number of signatures of registered voters, the governing body shall adopt a resolution calling an election on the question of allowing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day. The election may be held in conjunction with a regular election of the governing body or a regular local or special election held pursuant to the Local Election Act. The election shall be called, conducted, counted and canvassed in substantially the same manner as provided for general elections in the county under the Election Code or for special elections in a municipality under the Local Election Act. If a majority of the voters voting on the question votes against continuing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be prohibited. If a majority of the voters voting on the question votes to allow continued sale, service and consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be allowed to continue. The question then shall not be submitted again to the voters within two years of the date of the last election on the question.

H. Notwithstanding the provisions of Subsection F of this section, any Indian nation, tribe or pueblo whose lands are wholly situated within the state that has, by statute, ordinance or resolution, elected to permit the sale, possession or consumption of alcoholic beverages on lands within the territorial boundaries of the Indian nation, tribe or pueblo may, by statute, ordinance or resolution of the governing body of the Indian nation, tribe or pueblo, permit Sunday sales by the drink on the licensed premises of licensees on lands within the territorial boundaries of the Indian

nation, tribe or pueblo; provided that a certified copy of such enactment is filed with the office of the director and with the secretary of state.

I. Subject to the provisions of Subsection J of this section, a dispenser or retailer, upon payment of an additional fee of one hundred dollars (\$100), may obtain a permit to sell alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays from noon until midnight, and in those years when December 31 falls on a Sunday, from noon on December 31 until 2:00 a.m. of the following day. The permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to the provisions of this subsection shall be called "Sunday package sales".

J. If a petition requesting the governing body of a local option district to call an election on the question of continuing to allow sales of alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays is filed with the clerk of the governing body and that petition is signed by at least ten percent of the number of registered voters of the local option district and the clerk of the governing body verifies the petition signatures, the governing body shall adopt a resolution calling an election on the question. The election shall be held within sixty days of the date that the petition is verified, or it may be held in conjunction with a regular election of the governing body, if the regular election occurs within sixty days of the petition verification. The election shall be called, conducted, counted and canvassed substantially in the manner provided by law for general elections within a county or for special elections within a municipality pursuant to the Local Election Act. If a majority of the voters of the local option district voting in the election votes to allow the sale of alcoholic beverages in unbroken packages for consumption off the licensed premises, then those sales shall continue to be allowed. If a majority of the voters of the local option district voting in the election votes not to allow the Sunday package sales, then those Sunday package sales shall be prohibited commencing the first Sunday after the results of the election are certified. Following the election, the question of allowing the Sunday package sales shall not be submitted again to the voters within two years of the date of the last election on the question.

K. Sunday sales of alcoholic beverages shall be permitted at resorts and at horse racetracks statewide pursuant to the provisions of Section 60-7A-2 NMSA 1978."

## **Chapter 79 Section 100 Laws 2018**

SECTION 100. Section 62-6-5 NMSA 1978 (being Laws 1941, Chapter 84, Section 17A, as amended) is amended to read:

"62-6-5. LOCAL OPTION.--Notwithstanding any of the provisions in Section 62-6-4 NMSA 1978, any municipality desiring to avail itself of all the benefits of the Public Utility Act and of the regulatory services of the commission may elect to come within the

provisions of that act and to have the utilities owned and operated by it, either directly or through a municipally owned corporation, regulated and supervised under the provisions of that act. When a municipality so elects, in the manner provided in this section, it shall be subject to all the provisions of the Public Utility Act. The election shall be held as follows:

A. at any time after the effective date of the Public Utility Act, the legal voters of any municipality may petition in writing the governing body of the municipality by filing a petition in the office of the municipal clerk to hold an election for the purpose of determining whether the municipality shall be subject to the provisions of that act. If the aggregate of the names signed to the petition equals or exceeds twenty-five percent of the number of legal votes cast in the municipality for governor at the last preceding general election, the governing body of the municipality shall call an election to be held within sixty days of the filing of the petition in accordance with the provisions of the Local Election Act. Provided, however, that if a local election is to be held within six months of the filing of the petition, the election provided for in this section shall be held at the same time as that election;

B. the election shall be held in the same manner as and with the same registration books as for other municipal elections. The ballots to be submitted to the voters at the election shall present the following questions:

"For regulation of municipally owned  
utilities by the public  
regulation commission \_\_\_\_\_  
Against regulation of municipally owned  
utilities by the public  
regulation commission \_\_\_\_\_".

The votes at the election shall be counted, returned and canvassed as provided for in the Local Election Act. If the majority of all the votes are in favor of regulation of municipally owned utilities, the governing body of the municipality shall declare, by order entered upon the records of the municipality, that it is subject to all the provisions of the Public Utility Act. If the majority of all the votes are against such regulation, the result of the election shall be declared and entered in the same manner; and

C. no elections for the same purpose shall be held within two years of each other."

## **Chapter 79 Section 101 Laws 2018**



SECTION 101. Section 72-16-1 NMSA 1978 (being Laws 1963, Chapter 311, Section 1) is amended to read:

"72-16-1. SHORT TITLE.--Chapter 72, Article 16 NMSA 1978 may be cited as the "Arroyo Flood Control Act"."

## **Chapter 79 Section 102 Laws 2018**

SECTION 102. Section 72-16-4 NMSA 1978 (being Laws 1963, Chapter 311, Section 4) is amended to read:

"72-16-4. DEFINITIONS.--Except where the context otherwise requires, as used in the Arroyo Flood Control Act:

A. "act" means the Arroyo Flood Control Act;

B. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government or any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination of those, of facilities, other property or any project, or an interest in them, authorized by the Arroyo Flood Control Act;

C. "authority" means the Albuquerque metropolitan arroyo flood control authority;

D. "board" means the board of directors of the Albuquerque metropolitan arroyo flood control authority;

E. "chair" means the chair of the board and president of the authority;

F. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property or project, or an interest in them, authorized by the Arroyo Flood Control Act. The authority may exercise in the state the power of eminent domain, either within or without the authority, and in the manner provided by law for the condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes of the Arroyo Flood Control Act. In the event the construction of any facility or project authorized by that act, or any part of the act makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of the public utility facility for the expense of removal and relocation, including the cost of any necessary land or rights in land;

G. "cost" or "cost of the project", or words of similar import, means any part designated by the board of the cost of any facilities, project or interest being acquired and of any property, rights, easements, privileges, agreements and franchises

deemed by the authority to be necessary or useful and convenient or in connection therewith, which cost, at the option of the board, may include any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, preliminary expenses advanced by any municipality from funds available for use in the making of surveys, preliminary plans, estimates of cost and other preliminaries; for the costs of appraising and printing and employing engineers, architects, fiscal agents, attorneys at law, clerical help or other agents or employees; for the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal or interest on any securities; for the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments and the levy and collection of taxes and installments; for the costs of reimbursements by the authority to any public body, the federal government or any person of any money expended for or in connection with any facility or project; and for all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

H. "director" means a member of the board;

I. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property or any project, or an interest in them, authorized by the Arroyo Flood Control Act;

J. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer or firm of engineers employed by the authority in connection with any facility, property project or power authorized by the Arroyo Flood Control Act;

K. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant facilities, or any combination of them, appertaining to any facilities, property or project or interest in them, authorized by the Arroyo Flood Control Act;

L. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

M. "federal government" means the United States or any agency, instrumentality or corporation of the United States;

N. "federal securities" means the bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

O. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding under the Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

P. "hereby", "herein", "hereinabove", "hereinafter", "hereinbefore", "hereof", "hereto" and "hereunder" refer to the Arroyo Flood Control Act and not solely to the particular portion of the act in which such word is used;

Q. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any combination, of facilities, other property or project or any interest in them, authorized by the Arroyo Flood Control Act;

R. "mailed notice" or "notice by mail" means the giving by the engineer, secretary or any deputy, as determined by the board, of any designated written or printed notice addressed to the last known owner of each tract of real property in question or other designated person at the owner's last known address, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mails, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail a notice shall not invalidate any proceedings under the Arroyo Flood Control Act. The names and addresses of the property owners shall be obtained from the records of the county assessor or from such other source as the secretary or the engineer deems reliable. Any list of names and addresses may be revised from time to time, but the list need not be revised more frequently than at twelve-month intervals. Any mailing of notice required shall be verified by the affidavit or certificate of the engineer, secretary, deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining to taxes have been paid in full or any claim is barred by a statute of limitations;

S. "may" is permissive;

T. "municipality" means the city of Albuquerque or any other incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains thereto;

U. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

V. "president" means the president of the authority and the chair of the board;

W. "project" means any structure, facility, undertaking or system that the authority is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood

control system that the authority is authorized and directed to provide within and without the authority's boundaries;

X. "property" means real property and personal property;

Y. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general circulation in the authority. Except as otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication required shall be verified by the affidavit of the publisher and filed with the secretary;

Z. "public body" means the state or any agency, instrumentality or corporation of the state, or any municipality, school district or other type district or any other political subdivision of the state, excluding the authority and excluding the federal government;

AA. "qualified elector" means a person qualified and registered to vote in general elections in the state who is a resident of the authority at the time of any election held under the provisions of the Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

BB. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and improvements on land;
- (3) any property appurtenant to or used in connection with land;

and

(4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise, and the indebtedness secured by the liens;

CC. "secretary" means the secretary of the authority;

DD. "secretary of state" means the secretary of the state of New Mexico;

EE. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project, or interest in a project authorized by the Arroyo Flood Control Act;

FF. "sewer facilities" means any one or more of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances; all extensions, improvements, remodeling, additions and alterations; and any rights or interest in such sewer facilities;

GG. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer, or combination storm and sanitary sewer, including collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

HH. "shall" is mandatory;

II. "state" means the state of New Mexico or any agency, instrumentality or corporation of the state of New Mexico;

JJ. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

KK. "taxes" means general (ad valorem) taxes pertaining to any project authorized by the Arroyo Flood Control Act; and

LL. "treasurer" means the treasurer of the authority."

## **Chapter 79 Section 103 Laws 2018**

SECTION 103. Section 72-16-8 NMSA 1978 (being Laws 1963, Chapter 311, Section 8) is amended to read:

"72-16-8. BOARD OF DIRECTORS.--The governing body of the authority hereby created is a board of directors consisting of five qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority. Except for the first directors appointed as provided for in Section 72-16-9 NMSA 1978, and except for any director chosen to fill an unexpired term, the term of each director runs for six years. Each director, subject to such exceptions, shall serve a six-year term, and each director shall serve until a successor has been duly chosen and qualified."

## **Chapter 79 Section 104 Laws 2018**

SECTION 104. Section 72-16-10 NMSA 1978 (being Laws 1963, Chapter 311, Section 10, as amended) is amended to read:

"72-16-10. ELECTION OF DIRECTORS.--

A. Elections shall be held pursuant to the provisions of the Local Election Act. Directors shall be elected from single-member districts in which they reside. The board shall ensure that the districts remain contiguous, compact and as equal in population as is practicable, assessing the existing districts following each federal decennial census to accomplish that objective. A redistricting shall be effective at the following regular board election. Incumbent board members whose residences are redistricted out of their districts may serve out their term of office.

B. The qualified electors of the authority shall elect similarly one or two qualified electors as directors to serve six-year terms as directors and as successors to the directors whose terms end following each election. Nothing may be construed as preventing qualified electors of the authority from single-member districts from being elected or reelected as directors to succeed themselves."

## **Chapter 79 Section 105 Laws 2018**

SECTION 105. Section 72-16-11 NMSA 1978 (being Laws 1963, Chapter 311, Section 11, as amended) is amended to read:

"72-16-11. NOMINATION OF DIRECTORS.--Written nominations of any candidate as director may be filed in accordance with the provisions of the Local Election Act. Each nomination of any candidate shall be signed by not less than fifty qualified electors who reside within the district for which the candidate has been nominated, shall designate the name of the candidate nominated and shall recite that the subscribers are qualified electors of the district for which the candidate is nominated and that the candidate designated is a qualified elector of the authority and resides within the district for which the candidate is nominated. No qualified elector may nominate more than one candidate for any vacancy."

## **Chapter 79 Section 106 Laws 2018**

SECTION 106. Section 72-16-13 NMSA 1978 (being Laws 1963, Chapter 311, Section 13) is amended to read:

"72-16-13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day following the first day of the month that the term of office begins for members elected in the immediately preceding election at the office of the board within the authority. Each member of the board, before entering upon the member's official duties, shall take and subscribe on oath to support the constitution

of the United States and the constitution and laws of New Mexico and to discharge faithfully and impartially the duties of office to the best of the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon the director's official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of all of the duties of office, without fraud, deceit or oppression, and the accounting for all money and property coming into the director's hands and the prompt and faithful payment of all money and the delivering of all property coming into the director's custody or control belonging to the authority to the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority, and all such bonds shall be kept on file in the office of the secretary of state."

## **Chapter 79 Section 107 Laws 2018**

SECTION 107. Section 72-16-22 NMSA 1978 (being Laws 1963, Chapter 311, Section 22, as amended) is amended to read:

"72-16-22. ADDITIONAL POWERS OF THE AUTHORITY.--The authority may exercise the following duties, privileges, immunities, rights, liabilities and disabilities appertaining to a public body politic and corporate and constituting a quasi-municipal corporation and political subdivision of the state established as an instrumentality exercising public and essential governmental and proprietary functions to provide for the public health, safety and general welfare:

- A. have perpetual existence and succession;
- B. adopt, have and use a corporate seal and alter the same at pleasure;
- C. sue and be sued and be a party to suits, actions and proceedings;
- D. commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise, and otherwise participate in, and assume the cost and expense of, any and all actions and proceedings now or hereafter begun and appertaining to the authority, its board, its officers, agents or employees, or any of the authority's duties, privileges, immunities, rights, liabilities and disabilities, or the authority's flood control system, other property of the authority or any project;
- E. enter into contracts and agreements, including contracts with the federal government, the state and any other public body;
- F. borrow money and issue securities evidencing any loan to or amount due by the authority, provide for and secure the payment of any securities and the rights of the holders thereof, and purchase, hold and dispose of securities, as hereinafter provided;

G. refund any loan or obligation of the authority and issue refunding securities to evidence such loan or obligation without any election;

H. purchase, trade, exchange, encumber and otherwise acquire, maintain and dispose of property and interests therein;

I. levy and cause to be collected general (ad valorem) taxes on all property subject to property taxation within the authority; provided that the total tax levy, excluding any levy for the payment of any debt of the authority authorized pursuant to the Arroyo Flood Control Act, for any fiscal year shall not exceed an aggregate total of fifty cents (\$.50), or any lower amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this tax levy, for each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, by certifying, on or before the fifteenth day of July in each year in which the board determines to levy a tax, to the board of county commissioners of Bernalillo county, or by such other date as the laws of the state may prescribe to such other body having authority to levy taxes within each county wherein the authority has any territory, the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such body having authority to levy taxes shall levy the tax upon the net taxable value of all property subject to property taxation within the authority, in addition to such other taxes as may be levied by such body, as provided in Sections 72-16-23 through 72-16-27 NMSA 1978. No taxes may be levied and collected for any purpose, or any contract made, until a bond issue has been submitted to and approved by the qualified electors as hereinafter provided;

J. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes hereof, defray any expenses incurred thereby in connection with the authority, and acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, workers' compensation insurance, property damage insurance, public liability insurance for the authority and its officers, agents and employees, and other types of insurance, as the board may determine; provided, however, that no provision herein authorizing the acquisition of insurance shall be construed as waiving any immunity of the authority or any director, officer or agent thereof and otherwise existing under the laws of the state;

K. condemn property for public use;

L. acquire, improve, equip, hold, operate, maintain and dispose of a flood control system, storm sewer facilities, project and appurtenant works, or any interest therein, wholly within the authority, or partially within and partially without the authority, and wholly within, wholly without or partially within and partially without any public body all or any part of the area of which is situated within the authority;

M. pay or otherwise defray the cost of any project;



N. pay or otherwise defray and contract so to pay or defray, for any term not exceeding fifty years, without an election, except as hereinafter otherwise provided, the principal of, any interest on, and any other charges appertaining to, any securities or other obligations of the federal government or any public body or person incurred in connection with any such property so acquired by the authority;

O. establish and maintain facilities within or without the authority, across or along any public street, highway, bridge, viaduct or other public right of way, or in, upon, under or over any vacant public lands, which public lands are now, or may become, the property of the state, or across any stream of water or water course, without first obtaining a franchise from the municipality, county or other public body having jurisdiction over the same; provided that the authority shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct or other public right of way to its former state of usefulness as nearly as may be and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof;

P. deposit any money of the authority, subject to the limitations in Article 8, Section 4 of the constitution of New Mexico, in any banking institution within or without the state and secured in such manner and subject to such terms and conditions as the board may determine, with or without the payment of any interest on any such deposit;

Q. invest any surplus money in the authority treasury, including such money in any sinking or reserve fund established for the purpose of retiring any securities of the authority, not required for the immediate necessities of the authority, in its own securities or in federal securities, by direct purchase of any issue of such securities, or part thereof, at the original sale of the same, or by the subsequent purchase of such securities;

R. sell any such securities thus purchased and held, from time to time;

S. reinvest the proceeds of any such sale in other securities of the authority or in federal securities, as provided in Subsection Q of this section;

T. sell in season from time to time such securities thus purchased and held, so that the proceeds may be applied to the purposes for which the money with which such securities were originally purchased was placed in the treasury of the authority;

U. accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance and operation of any enterprise in which the authority is authorized to engage, and enter into contracts and cooperate with, and accept cooperation and participation from, the federal government for these purposes;

V. enter, without any election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other arrangements, for any term not exceeding fifty years, with the federal government, any public body or any person concerning storm sewer facilities, or any project, whether acquired by the authority or by the federal government, any public body or any person, and accept grants and contributions from the federal government, any public body or any person in connection therewith;

W. enter into and perform, without any election, when determined by the board to be in the public interest and necessary for the protection of the public health, contracts and agreements, for any term not exceeding fifty years, with the federal government, any public body or any person for the provision and operation by the authority of storm sewer facilities;

X. enter into and perform, without any election, contracts and agreements with the federal government, any public body or any person for or concerning the planning, construction, lease or other acquisition, improvement, equipment, operation, maintenance, disposal, and the financing of any project, including any contract or agreement for any term not exceeding fifty years;

Y. enter upon any land, make surveys, borings, soundings and examinations for the purposes of the authority, and locate the necessary works of any project and roadways and other rights of way appertaining to any project herein authorized; acquire all property necessary or convenient for the acquisition, improvement or equipment of such works;

Z. cooperate with and act in conjunction with the state, or any of its engineers, officers, boards, commissions or departments, or with the federal government or any of its engineers, officers, boards, commissions or departments, or with any other public body or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the authority, or for the protection of life or property therein, or for any other works, acts or purposes provided for herein, and adopt and carry out any definite plan or system of work for any such purpose;

AA. cooperate with the federal government or any public body by an agreement therewith by which the authority may:

(1) acquire and provide, without cost to the operating entity, the land, easements and rights of way necessary for the acquisition, improvement or equipment of the flood control system or any project;

(2) hold and save harmless the cooperating entity free from any claim for damages arising from the acquisition, improvement, equipment, maintenance and operation of the flood control system or any project;

(3) maintain and operate any project in accordance with regulations prescribed by the cooperating entity; and

(4) establish and enforce flood channel limits and regulations, if any, satisfactory to the cooperating entity;

BB. carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies and inspections pertaining to control of floods, sewer facilities, and any project, both within and without the authority, and for this purpose the authority has the right of access through its authorized representative to all lands and premises within the state;

CC. have the right to provide from revenues or other available funds an adequate fund for the improvement and equipment of the authority's flood control system or of any parts of the works and properties of the authority;

DD. prescribe and enforce reasonable rules and regulations for the prevention of further encroachment upon existing defined waterways, by their enlargement or other modification, for additional waterway facilities to prevent flooding;

EE. require any person desiring to make a connection to any storm water drain or flood control facility of the authority or to cause storm waters to be emptied into any ditch, drain, canal, floodway or other appurtenant structure of the authority firstly to make application to the board to make the connection, to require the connection to be made in such manner as the board may direct;

FF. refuse, if reasonably justified by the circumstances, permission to make any connection designated in Subsection DD or Subsection EE of this section;

GG. make and keep records in connection with any project or otherwise concerning the authority;

HH. arbitrate any differences arising in connection with any project or otherwise concerning the authority;

II. have the management, control and supervision of all the business and affairs appertaining to any project herein authorized, or otherwise concerning the authority, and of the acquisition, improvement, equipment, operation and maintenance of any such project;

JJ. prescribe the duties of officers, agents, employees and other persons and fix their compensation; provided that the compensation of employees and officers shall be established at prevailing rates of pay for equivalent work;

KK. enter into contracts of indemnity and guaranty, in such form as may be approved by the board, relating to or connected with the performance of any contract

or agreement that the authority is empowered to enter into under the provisions hereof or of any other law of the state;

LL. provide, by any contract for any term not exceeding fifty years, or otherwise, without an election:

(1) for the joint use of personnel, equipment and facilities of the authority and any public body, including without limitation public buildings constructed by or under the supervision of the board of the authority or the governing body of the public body concerned, upon such terms and agreements and within such areas within the authority as may be determined, for the promotion and protection of health, comfort, safety, life, welfare and property of the inhabitants of the authority and any such public body; and

(2) for the joint employment of clerks, stenographers and other employees appertaining to any project, now existing or hereafter established in the authority, upon such terms and conditions as may be determined for the equitable apportionment of the expenses therefrom resulting;

MM. obtain financial statements, appraisals, economic feasibility reports and valuations of any type appertaining to any project or any property pertaining thereto;

NN. adopt any resolution authorizing a project or the issuance of securities, or both, or otherwise appertaining thereto, or otherwise concerning the authority;

OO. make and execute a mortgage, deed of trust, indenture or other trust instrument appertaining to a project or to any securities herein authorized, or to both, except as provided in Subsection PP of this section and in Section 72-16-54 NMSA 1978;

PP. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted herein, or in the performance of the authority's covenants or duties, or in order to secure the payment of its securities; provided that no encumbrance, mortgage or other pledge of property, excluding any money, of the authority is created thereby; and provided further that no property, excluding money, of the authority is liable to be forfeited or taken in payment of such securities;

QQ. have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent hereof; and

RR. exercise all or any part or combination of the powers herein granted."

## **Chapter 79 Section 108 Laws 2018**

SECTION 108. Section 72-16-28 NMSA 1978 (being Laws 1963, Chapter 311, Section 28, as amended) is amended to read:

"72-16-28. ELECTIONS.--Each biennial election of directors, each election proposition to issue bonds and all other elections shall be conducted in accordance with the Local Election Act."

## **Chapter 79 Section 109 Laws 2018**

SECTION 109. Section 72-16-89 NMSA 1978 (being Laws 1963, Chapter 311, Section 89) is amended to read:

"72-16-89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation or other provision herein, whenever a majority of the qualified electors of the authority voting on a proposal to issue bonds has authorized the authority to issue bonds for any purpose herein authorized, the authority is authorized to borrow money without any other election in anticipation of taxes, the proceeds of the bonds or any other revenues of the authority, or any combination thereof, and to issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time not exceeding a period of time equal to the estimated time needed to effect the purpose for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section and in Sections 72-16-90 and 72-16-91 NMSA 1978, interim debentures shall be issued as provided herein for securities in Sections 72-16-47 through 72-16-80 NMSA 1978. Taxes, other revenues of the authority, including without limiting the generality of the foregoing, proceeds of bonds to be thereafter issued or reissued or bonds issued for the purpose of securing the payment of interim debentures may be pledged for the purpose of securing the payment of the interim debentures. Any bonds pledged as collateral security for the payment of any interim debentures shall mature at such time as the board may determine, but in no event exceeding forty years from the date of either any of such bonds or any of such interim debentures, whichever date is the earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture secured by a pledge of such bonds, nor shall they bear interest at any time that with any interest accruing at the same time on the interim debenture so secured exceeds six percent per year."

## **Chapter 79 Section 110 Laws 2018**

SECTION 110. Section 72-17-1 NMSA 1978 (being Laws 1967, Chapter 156, Section 1) is amended to read:

"72-17-1. SHORT TITLE.--Chapter 72, Article 17 NMSA 1978 may be cited as the "Las Cruces Arroyo Flood Control Act"."

## Chapter 79 Section 111 Laws 2018

SECTION 111. Section 72-17-4 NMSA 1978 (being Laws 1967, Chapter 156, Section 4) is amended to read:

"72-17-4. DEFINITIONS.--Except where the context otherwise requires, as used in the Las Cruces Arroyo Flood Control Act:

A. "act" means the Las Cruces Arroyo Flood Control Act;

B. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government or any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of facilities, other property or any project or an interest in any facilities, other property or project authorized;

C. "authority" means the Las Cruces metropolitan arroyo flood control authority hereby created;

D. "board" means the board of directors of the Las Cruces metropolitan arroyo flood control authority;

E. "chair" means the chair of the board and president of the authority;

F. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property or project or an interest in any facilities, other property or project authorized. The authority may exercise in the state the power of eminent domain, either within or without the authority and in the manner provided by law for the condemnation of private property for public use, and may take any property necessary to carry out any of the objects or purposes of the act. In the event the construction of any facility or project herein authorized, or any part thereof, makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of the public utility facility for the expense of removal and relocation, including the cost of any necessary land or rights in land;

G. "cost" or "cost of the project" or words of similar import, means all or any part designated by the board of the cost of any facilities or project, or interest in the facilities or project, being acquired, and all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient or in connection with the facilities or project, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including, without limiting the generality of the foregoing, preliminary expenses advanced by any municipality from funds available for use in the making of surveys, preliminary plans, estimates of cost and other preliminaries; for the costs of appraising

and printing and employing engineers, architects, fiscal agents, attorneys at law, clerical help and other agents or employees; for the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities; for the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments and the levy and collection of taxes and installments; for the costs of reimbursements by the authority to any public body, the federal government or any person of any money expended for or in connection with any facility or project; and for all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

H. "director" means a member of the board;

I. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property or any project or an interest in the facilities, property or project, herein authorized;

J. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer or firm of engineers employed by the authority in connection with any facility, property, project or power herein authorized;

K. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant facilities, or any combination thereof, appertaining to any facilities, property or project or interest in the facilities, property or project, herein authorized;

L. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

M. "federal government" means the United States or any agency, instrumentality or corporation of the United States;

N. "federal securities" means the bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

O. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding under the Las Cruces Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

P. "hereby", "herein", "hereinabove", "hereinafter", "hereinbefore", "hereof", "hereto" and "hereunder" refer to the Las Cruces Arroyo Flood Control Act and not solely to the particular portion in which the word is used;

Q. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any combination thereof, of facilities, other property or project or any interest in the facilities, property or project, herein authorized;

R. "mailed notice" or "notice by mail" means the giving by the engineer, secretary or any deputy of the engineer or secretary, as determined by the board, of any designated written or printed notice addressed to the last known owner of each tract of real property in question or other designated person at the person's last known address, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mails, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail a notice shall not invalidate any proceedings hereunder. The names and addresses of the property owners shall be obtained from the records of the county assessor or from such other source as the secretary or the engineer deems reliable. Any list of names and addresses may be revised from time to time, but the list need not be revised more frequently than at twelve-month intervals. Any mailing of a notice herein required shall be verified by the affidavit or certificate of the engineer, secretary, the deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining to them have been paid in full or any claim is barred by a statute of limitations;

S. "may" is permissive;

T. "municipality" means the city of Las Cruces or any other incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains thereto;

U. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

V. "president" means the president of the authority and the chair of the board;

W. "project" means any structure, facility, undertaking or system that the authority is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system that the authority is authorized and directed to provide within and without the authority's boundaries;

X. "property" means real property and personal property;



Y. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general circulation in the authority. Except as otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication required shall be verified by the affidavit of the publisher and filed with the secretary;

Z. "public body" means the state or any agency, instrumentality or corporation of the state or any municipality, school district or other type district or any other political subdivision of the state, excluding the authority and excluding the federal government;

AA. "qualified elector" means a person qualified and registered to vote in general elections in the state, who is a resident of the authority at the time of any election held under the provisions of the Las Cruces Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

BB. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and improvements on land;
- (3) any property appurtenant to or used in connection with land;

and

(4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise, and the indebtedness secured by liens;

CC. "secretary" means the secretary of the authority;

DD. "secretary of state" means the secretary of the state of New Mexico;

EE. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project or interest in any project herein authorized;

FF. "sewer facilities" means any one or more of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof, and any and all rights or interest in the sewer facilities;

GG. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer or combination storm and sanitary sewer, including collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

HH. "shall" is mandatory;

II. "state" means the state of New Mexico or any agency, instrumentality or corporation of the state of New Mexico;

JJ. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

KK. "taxes" means general (ad valorem) taxes pertaining to any project herein authorized; and

LL. "treasurer" means the treasurer of the authority."

## **Chapter 79 Section 112 Laws 2018**

SECTION 112. Section 72-17-8 NMSA 1978 (being Laws 1967, Chapter 156, Section 8) is amended to read:

"72-17-8. BOARD OF DIRECTORS.--The governing body of the authority hereby created is a board of directors consisting of five qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority. Except for the first directors appointed as provided and except for any director chosen to fill an unexpired term, the term of each director runs for six years. Each director, subject to such exceptions, shall serve a six-year term, and each director shall serve until a successor has been duly chosen and qualified."

## **Chapter 79 Section 113 Laws 2018**

SECTION 113. Section 72-17-10 NMSA 1978 (being Laws 1967, Chapter 156, Section 10) is amended to read:

"72-17-10. ELECTION OF DIRECTORS.--At the time that a proposal to incur debt is first submitted to the qualified electors, the qualified electors of the authority shall elect five qualified directors, two to serve a term ending January 1, 1969, two to serve a term ending January 1, 1971 and one to serve a term ending January 1, 1973. At the first election, the five candidates receiving the highest number of votes shall be elected as directors. The terms of the directors shall be determined by lot at their organizational meeting. At each election thereafter, the qualified electors of the authority shall elect similarly one or two qualified electors as directors to serve six-year terms as directors and as successors to the directors whose terms end following each election. Nothing in this section may be construed as preventing qualified electors of the authority from being elected or reelected as directors to succeed themselves."

### **Chapter 79 Section 114 Laws 2018**

SECTION 114. Section 72-17-11 NMSA 1978 (being Laws 1967, Chapter 156, Section 11) is amended to read:

"72-17-11. NOMINATION OF DIRECTORS.--Written nominations of any candidate as director may be filed with the proper filing officer in accordance with the provisions of the Local Election Act. Each nomination of any candidate shall be signed by not less than fifty qualified electors regardless of whether or not nominated, shall designate the name of the candidates and shall recite that the subscribers are qualified electors and that the candidates designated are qualified electors of the authority. No written nomination may designate more qualified electors as candidates than there are vacancies. No qualified elector may nominate more than one candidate for any vacancy."

### **Chapter 79 Section 115 Laws 2018**

SECTION 115. Section 72-17-13 NMSA 1978 (being Laws 1967, Chapter 156, Section 13) is amended to read:

"72-17-13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day next following the first day of the month that the term of office begins for members elected in the immediately preceding election at the office of the board within the authority. Each member of the board, before entering upon the member's official duties, shall take and subscribe an oath that the member will support the constitution of the United States and the constitution and laws of New Mexico and that the member will faithfully and impartially discharge the duties of office to the best of the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon the director's official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of each of the duties of office,

without fraud, deceit or oppression, and the accounting for all money and property coming into the director's hands, and the prompt and faithful payment of all money and the delivering of all property coming into the director's custody or control belonging to the authority of the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority, and all such bonds shall be kept on file in the office of the secretary of state."

## **Chapter 79 Section 116 Laws 2018**

SECTION 116. Section 72-17-22 NMSA 1978 (being Laws 1967, Chapter 156, Section 22, as amended) is amended to read:

"72-17-22. ADDITIONAL POWERS OF AUTHORITY.--The authority may exercise the following powers:

A. have duties, privileges, immunities, rights, liabilities and disabilities appertaining to a public body politic and corporate and constituting a quasi-municipal corporation and political subdivision of the state established as an instrumentality exercising public and essential governmental and proprietary functions to provide for the public health, safety and general welfare;

B. have perpetual existence and succession;

C. adopt, have and use a corporate seal and alter the same at pleasure;

D. sue and be sued and be a party to suits, actions and proceedings;

E. commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise and otherwise participate in and assume the cost and expense of any actions and proceedings now or hereafter begun and appertaining to the authority, its board, its officers, agents or employees or any of the authority's duties, privileges, immunities, rights, liabilities and disabilities or the authority's flood control system, other property of the authority or any project;

F. enter into contracts and agreements, including contracts with the federal government, the state and any other public body;

G. borrow money and issue securities evidencing any loan to or amount due by the authority, provide for and secure the payment of any securities and the rights of the holders thereof and purchase, hold and dispose of securities as hereinafter provided;

H. refund any loan or obligation of the authority and issue refunding securities to evidence such loan or obligation without any election;

I. purchase, trade, exchange, encumber and otherwise acquire, maintain and dispose of property and interests therein;

J. levy and cause to be collected general (ad valorem) taxes on all property subject to property taxation within the authority; provided that the total tax levy, excluding any levy for the payment of any debt of the authority authorized by the qualified electors of the authority, for any fiscal year shall not exceed an aggregate total of fifty cents (\$.50), or any lower maximum amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this tax levy, on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, by certifying, on or before July 15 of each year in which the board determines to levy a tax, to the board of county commissioners of Dona Ana county, or by such other date as the laws of the state may prescribe to such other body having authority to levy taxes within each county wherein the authority has any territory, the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such body having authority to levy taxes shall levy such tax upon the net taxable value of all property subject to property taxation within the authority, in addition to such other taxes as may be levied by such body as provided in Sections 72-17-23 through 72-17-27 NMSA 1978. No taxes may be levied and collected for any purpose and no contract may be made until a bond issue has been submitted to and approved by the qualified electors as hereinafter provided;

K. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes hereof, defray any expenses incurred thereby in connection with the authority and acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, workers' compensation insurance, property damage insurance, public liability insurance for the authority and its officers, agents and employees and other types of insurance as the board may determine; provided, however, that no provision herein authorizing the acquisition of insurance shall be construed as waiving any immunity of the authority or any director, officer or agent thereof and otherwise existing under the laws of the state;

L. condemn property for public use;

M. acquire, improve, equip, hold, operate, maintain and dispose of a flood control system, sewer facilities, project and appurtenant works or any interest therein wholly within the authority, or partially within and partially without the authority, and wholly within, wholly without or partially within and partially without any public body all or any part of the area of which is situated within the authority;

N. pay or otherwise defray the cost of any project;

O. pay or otherwise defray and contract so to pay or defray for any term not exceeding fifty years, without an election, except as hereinafter otherwise provided, the principal of, any interest on and any other charges appertaining to any securities or

other obligations of the federal government, any public body or person incurred in connection with any such property so acquired by the authority;

P. establish and maintain facilities within or without the authority, across or along any public street, highway, bridge, viaduct or other public right of way or in, upon, under or over any vacant public lands, which public lands are now or may become the property of the state, or across any stream of water or water course, without first obtaining a franchise from the municipality, county or other public body having jurisdiction over the same; provided that the authority shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct or other public right of way to its former state of usefulness as nearly as may be and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof;

Q. deposit any money of the authority, subject to the limitations in Article 8, Section 4 of the constitution of New Mexico, in any banking institution within or without the state and secured in such manner and subject to such terms and conditions as the board may determine, with or without the payment of any interest on any such deposit;

R. invest any surplus money in the authority treasury, including such money in any sinking or reserve fund established for the purpose of retiring any securities of the authority, not required for the immediate necessities of the authority, in its own securities or in federal securities, by direct purchase of any issue of such securities, or part thereof, at the original sale of the same or by the subsequent purchase of such securities;

S. sell any such securities thus purchased and held from time to time;

T. reinvest the proceeds of any such sale in other securities of the authority or in federal securities, as provided in Subsection R of this section;

U. sell in season from time to time such securities thus purchased and held, so that the proceeds may be applied to the purpose for which the money with which such securities were originally purchased was placed in the treasury of the authority;

V. accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance and operation of any enterprise in which the authority is authorized to engage and enter into contracts and cooperate with, and accept cooperation and participation from, the federal government for these purposes;

W. enter, without any election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other arrangements for any term not exceeding fifty years with the federal government, any

public body or any person concerning sewer facilities, or any project, whether acquired by the authority or by the federal government, any public body or any person, and accept grants and contributions from the federal government, any public body or any person in connection herewith;

X. enter into and perform, without any election, when determined by the board to be in the public interest and necessary for the protection of the public health, contracts and agreements for any term not exceeding fifty years with the federal government, any public body or any person for the provision and operation by the authority of sewer facilities;

Y. enter into and perform, without any election, contracts and agreements with the federal government, any public body and any person for or concerning the planning, construction, lease or other acquisition, improvement, equipment, operation, maintenance, disposal and the financing of any project, including any contract or agreement for any term not exceeding fifty years;

Z. enter upon any land, make surveys, borings, soundings and examinations for the purposes of the authority and locate the necessary works of any project and roadways and other rights of way appertaining to any project herein authorized and acquire all property necessary or convenient for the acquisition, improvement or equipment of such works;

AA. cooperate with and act in conjunction with the state or any of its engineers, officers, boards, commissions or departments or with the federal government or any of its engineers, officers, boards, commissions or departments or with any other public body or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the authority or for the protection of life or property therein or for any other works, acts or purposes provided for herein and adopt and carry out any definite plan or system of work for any such purpose;

BB. cooperate with the federal government or any public body by an agreement therewith by which the authority may:

(1) acquire and provide, without cost to the operating entity, the land, easements and rights of way necessary for the acquisition, improvement or equipment of the flood control system or any project;

(2) hold and save harmless the cooperating entity free from any claim for damages arising from the acquisition, improvement, equipment, maintenance and operation of the flood control system or any project;

(3) maintain and operate any project in accordance with regulations prescribed by the cooperating entity; and

(4) establish and enforce flood channel limits and regulations, if any, satisfactory to the cooperating entity;

CC. carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies and inspections pertaining to control of floods, sewer facilities and any project, both within and without the authority, and for this purpose the authority has the right of access through its authorized representative to all lands and premises within the state;

DD. have the right to provide from revenues or other available funds an adequate fund for the improvement and equipment of the authority's flood control system or of any parts of the works and properties of the authority;

EE. prescribe and enforce reasonable rules and regulations for the prevention of further encroachment upon existing defined waterways, by their enlargement or other modification, for additional waterway facilities to prevent flooding;

FF. require any person desiring to make a connection to any storm water drain or flood control facility of the authority or to cause storm waters to be emptied into any ditch, drain, canal, floodway or other appurtenant structure of the authority firstly to make application to the board to make the connection, to require the connection to be made in such manner as the board may direct;

GG. refuse, if reasonably justified by the circumstances, permission to make any connection designated in Subsection EE or Subsection FF of this section;

HH. make and keep records in connection with any project or otherwise concerning the authority;

II. arbitrate any differences arising in connection with any project and otherwise concerning the authority;

JJ. have the management, control and supervision of all the business and affairs appertaining to any project herein authorized, or otherwise concerning the authority, and of the acquisition, improvement, equipment, operation and maintenance of any such project;

KK. prescribe the duties of officers, agents, employees and other persons and fix their compensation; provided that the compensation of employees and officers shall be established at prevailing rates of pay for equivalent work;

LL. enter into contracts of indemnity and guaranty in such form as may be approved by the board relating to or connected with the performance of any contract or agreement that the authority is empowered to enter into under the provisions hereof or of any other law of the state;



MM. provide, by any contract for any term not exceeding fifty years, or otherwise, without an election:

(1) for the joint use of personnel, equipment and facilities of the authority and any public body, including without limitation public buildings constructed by or under the supervision of the board of the authority or the governing body of the public body concerned, upon such terms and agreements and within such areas within the authority as may be determined, for the promotion and protection of health, comfort, safety, life, welfare and property of the inhabitants of the authority and any such public body; and

(2) for the joint employment of clerks, stenographers and other employees appertaining to any project, now existing or hereafter established in the authority, upon such terms and conditions as may be determined for the equitable apportionment of the expenses therefrom resulting;

NN. obtain financial statements, appraisals, economic feasibility reports and valuations of any type appertaining to any project or any property pertaining thereto;

OO. adopt any resolution authorizing a project or the issuance of securities, or both, or otherwise appertaining thereto, or otherwise concerning the authority;

PP. make and execute a mortgage, deed of trust, indenture or other trust instrument appertaining to a project or to any securities herein authorized, or to both, except as provided in Subsection QQ of this section and in Section 72-17-54 NMSA 1978;

QQ. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted herein or in the performance of the authority's covenants or duties or in order to secure the payment of its securities; provided that no encumbrance, mortgage or other pledge of property, excluding any money, of the authority is created thereby; and provided further that no property, excluding money, of the district is liable to be forfeited or taken in payment of such securities;

RR. have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent hereof; and

SS. exercise all or any part or combination of the powers herein granted."

## **Chapter 79 Section 117 Laws 2018**

SECTION 117. Section 72-17-28 NMSA 1978 (being Laws 1967, Chapter 156, Section 28) is amended to read:

"72-17-28. ELECTIONS.--Elections shall be held pursuant to the provisions of the Local Election Act."

### **Chapter 79 Section 118 Laws 2018**

SECTION 118. Section 72-17-44 NMSA 1978 (being Laws 1967, Chapter 156, Section 44) is amended to read:

"72-17-44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--The authority is authorized to borrow money in anticipation of taxes or other revenues, or both, and to issue bonds to evidence the amount so borrowed. No bonded indebtedness or any other indebtedness not payable in full within one year, except for interim debentures as provided in Sections 72-17-46 and 72-17-89 through 72-17-91 NMSA 1978, shall be created by the authority without first submitting a proposition of issuing such bonds to the qualified electors of the authority and being approved by a majority of such electors voting thereon at an election held for that purpose in accordance with Sections 72-17-28 through 72-17-34 NMSA 1978 and all laws amendatory thereof and supplemental thereto. Bonds so authorized may be issued in one series or more and may mature at such time or times not exceeding forty years from their issuance as the board may determine. The total of all outstanding indebtedness at any one time shall not exceed twelve million five hundred thousand dollars (\$12,500,000) without prior approval of the state legislature."

### **Chapter 79 Section 119 Laws 2018**

SECTION 119. Section 72-17-89 NMSA 1978 (being Laws 1967, Chapter 156, Section 89) is amended to read:

"72-17-89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation or other provision herein, whenever a majority of the qualified electors of the authority voting on a proposal to issue bonds has authorized the authority to issue bonds for any purpose herein authorized, the authority is authorized to borrow money without any other election in anticipation of taxes, the proceeds of such bonds or any other revenues of the authority, or any combination thereof, and to issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time or times not exceeding a period of time equal to the estimated time needed to effect the purpose for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section and in Sections 72-17-90 and 72-17-91 NMSA 1978, interim debentures shall be issued as provided herein for securities in Sections 72-17-47 through 72-17-80 NMSA 1978. Taxes, other revenues of the authority, including without limiting the generality of the foregoing, proceeds of bonds to be thereafter issued or reissued or bonds issued for the purpose of securing the payment of interim

debentures may be pledged for the purpose of securing the payment of the interim debentures. Any bonds pledged as collateral security for the payment of any interim debentures shall mature at such time or times as the board may determine, but in no event exceeding forty years from the date of either any of such bonds or any of such interim debentures, whichever date be the earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture or interim debenture secured by a pledge of such bonds, nor shall they bear interest at any time that, with any interest accruing at the same time on the interim debenture or interim debentures so secured, exceeds six percent per year."

### **Chapter 79 Section 120 Laws 2018**

SECTION 120. Section 72-18-1 NMSA 1978 (being Laws 1981, Chapter 377, Section 1) is amended to read:

"72-18-1. SHORT TITLE.--Chapter 72, Article 18 NMSA 1978 may be cited as the "Flood Control District Act"."

### **Chapter 79 Section 121 Laws 2018**

SECTION 121. Section 72-18-13 NMSA 1978 (being Laws 1981, Chapter 377, Section 13) is amended to read:

"72-18-13. ORGANIZATION OF BOARD--INITIAL TERMS OF DIRECTORS.--

A. After taking oath and filing bonds, the board shall choose one of its members as chair of the board and shall choose a secretary and a treasurer of the board and of the district. The secretary and treasurer may be one person.

B. The terms of the members of the initial board of directors shall be determined by lot at their organizational meeting. Two members shall serve an initial term of two years following organization of the district, two members shall serve an initial term of four years following organization of the district and one member shall serve an initial term of six years following organization of the district."

### **Chapter 79 Section 122 Laws 2018**

SECTION 122. Section 72-18-14 NMSA 1978 (being Laws 1981, Chapter 377, Section 14) is amended to read:

"72-18-14. ELECTION OF DIRECTORS.--Flood control district elections shall be held pursuant to the Local Election Act. At each local election after organization of the district, there shall be elected by the qualified registered electors of the district one or two members of the board to serve for a term of six years. Except for the initial board of directors and except for any director chosen to fill an unexpired term, the term of each

director runs for six years. Each director shall serve until a successor has been duly chosen and qualified."

### **Chapter 79 Section 123 Laws 2018**

SECTION 123. Section 72-18-15 NMSA 1978 (being Laws 1981, Chapter 377, Section 15) is amended to read:

"72-18-15. VACANCIES ON THE BOARD.--Any vacancy on the board shall be filled by appointment by a majority of the remaining members of the board. The appointee shall serve until the next local election pursuant to the Local Election Act when the vacancy shall be filled by election. If the board fails to fill any vacancy within thirty days after it occurs, the court declaring the organization of the district shall fill the vacancy."

### **Chapter 79 Section 124 Laws 2018**

SECTION 124. Section 72-18-35 NMSA 1978 (being Laws 1981, Chapter 377, Section 35) is amended to read:

"72-18-35. ELECTION.--Wherever in the Flood Control District Act an election of the qualified registered electors of a district is permitted or required, the election shall be held pursuant to the Local Election Act."

### **Chapter 79 Section 125 Laws 2018**

SECTION 125. Section 72-18-35.1 NMSA 1978 (being Laws 1985, Chapter 177, Section 2) is amended to read:

"72-18-35.1. ELECTION OF DIRECTORS--ESTABLISHED DISTRICT.--In a district established pursuant to the Flood Control District Act, the election of directors shall be conducted in accordance with the provisions of the Local Election Act."

### **Chapter 79 Section 126 Laws 2018**

SECTION 126. Section 72-19-1 NMSA 1978 (being Laws 1990, Chapter 14, Section 1) is amended to read:

"72-19-1. SHORT TITLE.--Chapter 72, Article 19 NMSA 1978 may be cited as the "Southern Sandoval County Arroyo Flood Control Act"."

### **Chapter 79 Section 127 Laws 2018**

SECTION 127. Section 72-19-4 NMSA 1978 (being Laws 1990, Chapter 14, Section 4, as amended) is amended to read:

"72-19-4. DEFINITIONS.--Except where the context otherwise requires, as used in the Southern Sandoval County Arroyo Flood Control Act:

A. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government or any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of facilities, other property or any project or an interest in the facilities, other property or project authorized by the Southern Sandoval County Arroyo Flood Control Act;

B. "authority" means the southern Sandoval county arroyo flood control authority;

C. "board" means the board of directors of the authority;

D. "chair" means the chair of the board and president of the authority;

E. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property or project or an interest in the facilities, other property or project authorized by the Southern Sandoval County Arroyo Flood Control Act. The authority may exercise in the state the power of eminent domain, either within or without the authority, and, in the manner provided by law for the condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes of that act. In the event the construction of any facility or project authorized by that act, or any part thereof, makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of the public utility facility for the expense of removal and relocation, including the cost of any necessary land or rights in land;

F. "cost" or "cost of the project", or words of similar import, means all, or any part designated by the board, of the cost of any facilities or project or interest in the facilities or project being acquired and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient to or in connection with the facilities or project, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, preliminary expenses advanced by any municipality or other public body from funds available for use in the making of surveys, preliminary plans, estimates of cost or other preliminaries; for the costs of appraising and printing and employing engineers, architects, fiscal agents, attorneys at law, clerical help and other agents or employees; for the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities; for the costs of

making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments and the levy and collection of taxes and installments of taxes; for the costs of reimbursements by the authority to any public body, the federal government or any person of any money expended for or in connection with any facility or project; and for all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

G. "director" means a member of the board;

H. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property or any project, or an interest in the facilities, other property or project authorized by the Southern Sandoval County Arroyo Flood Control Act;

I. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer or firm of engineers employed by the authority in connection with any facility, property, project or power authorized by the Southern Sandoval County Arroyo Flood Control Act;

J. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant facilities, or any combination thereof, appertaining to any facilities, property, project or interest authorized by the Southern Sandoval County Arroyo Flood Control Act;

K. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

L. "federal government" means the United States or any agency, instrumentality or corporation of the United States;

M. "federal securities" means the bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

N. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding under the Southern Sandoval County Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

O. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any combination thereof, of facilities, other property or project or any interest in the facilities, other property or project authorized by the Southern Sandoval County Arroyo Flood Control Act;

P. "mailed notice" or notice by "mail" means the giving by the engineer, secretary or any deputy, as determined by the board, of any designated written or printed notice addressed to the last known owner of each tract of real property in question or other designated person at the person's last known address, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mails, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail the notice shall not invalidate any proceedings under the Southern Sandoval County Arroyo Flood Control Act. The names and addresses of those property owners shall be obtained from the records of the county assessor or from such other source as the secretary or the engineer deems reliable. Any list of names and addresses may be revised from time to time, but the list need not be revised more frequently than at twelve-month intervals. Any mailing of any notice required shall be verified by the affidavit or certificate of the engineer, secretary, deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining thereto have been paid in full or any claim is barred by a statute of limitations;

Q. "municipality" means any incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains to municipality;

R. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

S. "president" means the president of the authority and the chair of the board;

T. "project" means any structure, facility, undertaking or system that the authority is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system that the authority is authorized and directed to provide within and without the authority's boundaries;

U. "property" means real property and personal property;

V. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general circulation in the authority. Except as otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any

publication required shall be verified by the affidavit of the publisher and filed with the secretary;

W. "public body" means the state or any agency, instrumentality or corporation of the state or any municipality, school district or other type district or any other political subdivision of the state, excluding the authority and excluding the federal government;

X. "qualified elector" means a person qualified and registered to vote in general elections in the state who is a resident of the authority at the time of any election held under the provisions of the Southern Sandoval County Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

Y. "real property" means:

(1) land, including land under water;

(2) buildings, structures, fixtures and improvements on land;

(3) any property appurtenant to or used in connection with land;

and

(4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise and the indebtedness secured by such liens;

Z. "secretary" means the secretary of the authority;

AA. "secretary of state" means the secretary of the state of New Mexico;

BB. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project or interest in a project authorized by the Southern Sandoval County Arroyo Flood Control Act;

CC. "sewer facilities" means any one or more of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof and any rights or interest in such sewer facilities;

DD. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer or combination



storm and sanitary sewer, including collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

EE. "state" means the state of New Mexico or any agency, instrumentality or corporation of the state;

FF. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

GG. "taxes" means general (ad valorem) taxes pertaining to any project authorized by the Southern Sandoval County Arroyo Flood Control Act; and

HH. "treasurer" means the treasurer of the authority."

## **Chapter 79 Section 128 Laws 2018**

SECTION 128. Section 72-19-8 NMSA 1978 (being Laws 1990, Chapter 14, Section 8, as amended) is amended to read:

"72-19-8. BOARD OF DIRECTORS.--The governing body of the authority is a board of directors consisting of five qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority. Except for the first directors appointed as provided for in Section 72-19-9 NMSA 1978 or elected as provided for in Section 72-19-10 NMSA 1978 and except for any director chosen to fill an unexpired term, the term of each director runs for six years. Each director, subject to such exceptions, shall serve a six-year term, and each director shall serve until a successor has been duly chosen and qualified."

## **Chapter 79 Section 129 Laws 2018**

SECTION 129. Section 72-19-10 NMSA 1978 (being Laws 1990, Chapter 14, Section 10, as amended) is amended to read:

"72-19-10. ELECTION OF DIRECTORS.--At the time that a proposal to incur debt is first submitted to the qualified electors, the qualified electors of the authority shall elect five qualified directors, two to serve a term ending January 1, 1993, two to serve a term ending January 1, 1995 and one to serve a term ending January 1, 1997. At the first election, the five candidates receiving the highest number of votes shall be elected as directors. The terms of the directors shall be determined by lot at their organizational meeting. At each local election thereafter, the qualified electors of the authority shall elect similarly one or two qualified electors as directors to serve six-year terms as

directors. Elections shall be held pursuant to the provisions of the Local Election Act. Nothing in the Southern Sandoval County Arroyo Flood Control Act shall be construed as preventing qualified electors of the authority from being elected or reelected as directors to succeed themselves."

### **Chapter 79 Section 130 Laws 2018**

SECTION 130. Section 72-19-11 NMSA 1978 (being Laws 1990, Chapter 14, Section 11, as amended) is amended to read:

"72-19-11. NOMINATION OF DIRECTORS.--Written nominations of any candidate as director may be filed with the proper filing officer in accordance with the provisions of the Local Election Act. Each nomination of any candidate shall be signed by not less than fifty qualified electors, regardless of whether or not nominated, shall designate the name of the candidates nominated and shall recite that the subscribers are qualified electors and that the candidates designated are qualified electors of the authority. No written nomination may designate more qualified electors as candidates than there are vacancies. No qualified elector may nominate more than one candidate for any vacancy."

### **Chapter 79 Section 131 Laws 2018**

SECTION 131. Section 72-19-13 NMSA 1978 (being Laws 1990, Chapter 14, Section 13) is amended to read:

"72-19-13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day next following the first day of the month that the term of office begins for members elected in the immediately preceding election at the office of the board within the authority. Each member of the board, before entering upon official duties, shall take and subscribe on oath that the member will support the constitution of the United States and the constitution and laws of New Mexico and will faithfully and impartially discharge the duties of office to the best of the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of all of the duties of office, without fraud, deceit or oppression, and the accounting for all money and property coming into the director's hands, and the prompt and faithful payment of all money and the delivering of all property coming into the director's custody or control belonging to the authority, to the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority, and all such bonds shall be kept on file in the office of the secretary of state."

### **Chapter 79 Section 132 Laws 2018**

SECTION 132. Section 72-19-28 NMSA 1978 (being Laws 1990, Chapter 14, Section 28, as amended) is amended to read:

"72-19-28. ELECTIONS.--Each biennial election of directors and other election of the authority, including an election to seek approval for the issuance of bonds, shall be conducted pursuant to the Local Election Act."

## **Chapter 79 Section 133 Laws 2018**

SECTION 133. Section 72-20-4 NMSA 1978 (being Laws 2007, Chapter 99, Section 4) is amended to read:

"72-20-4. DEFINITIONS.--Except where the context otherwise requires, as used in the Eastern Sandoval County Arroyo Flood Control Act:

A. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government or any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of facilities, other property or any project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

B. "authority" means the eastern Sandoval county arroyo flood control authority;

C. "board" means the board of directors of the authority;

D. "chair" means the chair of the board and president of the authority;

E. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property or project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act. The authority may exercise in the state the power of eminent domain, either within or without the authority and, in the manner provided by law for the condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes of the Eastern Sandoval County Arroyo Flood Control Act. In the event the construction of any facility or project authorized by the Eastern Sandoval County Arroyo Flood Control Act, or any part thereof, makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of the public utility facility for the expense of removal and relocation, including the cost of any necessary land or rights in land;

F. "cost" or "cost of the project", or words of similar import, means all, or any part designated by the board, of the cost of any facilities, project or interest therein being acquired and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, preliminary expenses advanced by any municipality or other

public body from funds available for use therefor in the making of surveys, preliminary plans, estimates of cost and other preliminaries; for the costs of appraising and printing and employing engineers, architects, fiscal agents, attorneys at law, clerical help and other agents or employees; for the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities; for the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments and the levy and collection of taxes and installments thereof; for the costs of reimbursements by the authority to any public body, the federal government or any person of any money theretofore expended for or in connection with any facility or project; and for all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

G. "director" means a member of the board;

H. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property or any project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

I. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer or firm of such engineers employed by the authority in connection with any facility, property, project or power authorized by the Eastern Sandoval County Arroyo Flood Control Act;

J. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant facilities, or any combination thereof, appertaining to any facilities, property or project or interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

K. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

L. "federal government" means the United States or any agency, instrumentality or corporation thereof;

M. "federal securities" means the bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

N. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the

public body proceeding under the Eastern Sandoval County Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

O. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any combination thereof, of facilities, other property or project or any interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

P. "mailed notice" or notice by "mail" means the giving by the engineer, secretary or any deputy thereof, as determined by the board, of any designated written or printed notice addressed to the last known owner of each tract of real property in question or other designated person at the last known address, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mail, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail any such notice shall not invalidate any proceedings under the Eastern Sandoval County Arroyo Flood Control Act. The names and addresses of those property owners shall be obtained from the records of the county assessor or from such other source as the secretary or the engineer deems reliable. Any list of such names and addresses may be revised from time to time, but such a list need not be revised more frequently than at twelve-month intervals. Any mailing of any notice required shall be verified by the affidavit or certificate of the engineer, secretary, deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining thereto have been paid in full or any claim is barred by a statute of limitations;

Q. "municipality" means any incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains to municipality;

R. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

S. "president" means the president of the authority and the chair of the board;

T. "project" means any structure, facility, undertaking or system that the authority is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system that the authority is authorized and directed to provide within and without the authority's boundaries;

U. "property" means real property and personal property;

V. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general circulation in the

authority. Except as otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise so stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication required shall be verified by the affidavit of the publisher and filed with the secretary;

W. "public body" means the state or any agency, instrumentality or corporation thereof or any municipality, school district or other type of district or any other political subdivision of the state, excluding the authority and excluding the federal government;

X. "qualified elector" means a person qualified and registered to vote in general elections in the state, who is a resident of the authority at the time of any election held under the provisions of the Eastern Sandoval County Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

Y. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and improvements on land;
- (3) any property appurtenant to or used in connection with land;

and

(4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise and the indebtedness secured by such liens;

Z. "secretary" means the secretary of the authority;

AA. "secretary of state" means the secretary of state of New Mexico;

BB. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project or interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

CC. "sewer facilities" means any one or more of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals,

intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof and any rights or interest in such sewer facilities;

DD. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer or combination storm and sanitary sewer, including collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

EE. "state" means the state of New Mexico or any agency, instrumentality or corporation thereof;

FF. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

GG. "taxes" means general (ad valorem) taxes pertaining to any project authorized by the Eastern Sandoval County Arroyo Flood Control Act; and

HH. "treasurer" means the treasurer of the authority."

## **Chapter 79 Section 134 Laws 2018**

SECTION 134. Section 72-20-8 NMSA 1978 (being Laws 2007, Chapter 99, Section 8, as amended) is amended to read:

"72-20-8. BOARD OF DIRECTORS.--

A. The governing body of the authority is a board of directors consisting of three registered qualified electors of the authority; provided that, after single-member districts are created pursuant to Subsection B of Section 72-20-10 NMSA 1978 and after the expiration of the terms of any directors-at-large who are serving at the time that single-member districts are created:

(1) each director shall reside within and represent a specified district; and

(2) if a director no longer resides within the district that the director represents, the director's position shall be deemed vacant and a successor shall be appointed to serve the unexpired term pursuant to Section 72-20-12 NMSA 1978.

B. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority or to any

officer or employee contracted by agreement to manage and administer the operations of the authority. Except for the first directors appointed as provided for in Section 72-20-9 NMSA 1978 or elected as provided in Section 72-20-10 NMSA 1978 and except for any director chosen to fill an unexpired term, and except for the first directors serving after the authority is divided into single-member districts, the term of each director runs for six years. Each director, subject to such exceptions, shall serve a six-year term, and each director shall serve until a successor has been duly chosen and qualified."

## **Chapter 79 Section 135 Laws 2018**

SECTION 135. Section 72-20-10 NMSA 1978 (being Laws 2007, Chapter 99, Section 10, as amended) is amended to read:

### "72-20-10. ELECTION OF DIRECTORS--SINGLE-MEMBER DISTRICTS.--

A. At the time that a proposal to incur debt is first submitted to the qualified electors, the qualified electors of the authority shall elect five qualified directors, two to serve a term ending January 1, 2011, two to serve a term ending January 1, 2013 and one to serve a term ending January 1, 2015. At the first election, the five candidates receiving the highest number of votes shall be elected as directors. The terms of the directors shall be determined by lot at their organizational meeting.

B. Upon the exclusion of land pursuant to Subsection C of Section 72-20-6 NMSA 1978, the two directors elected in the 2010 general election shall be deemed to have resigned, and, notwithstanding the provisions of Section 72-20-12 NMSA 1978, their positions shall not be filled. Thereafter, the board shall consist of three directors. The board shall divide the authority into three single-member districts. The following provisions shall govern the procedure for converting to single-member districts:

(1) the districts shall be as contiguous, compact and as equal in population as is practicable;

(2) remaining terms for the three incumbent directors shall be chosen by lot so that one term expires on January 1, 2013, one term expires on January 1, 2015 and one term expires on January 1, 2017;

(3) if, as a result of the division of the authority into districts, two or more incumbent directors reside within the same district, the board shall determine, by lot, one of the directors to represent the district, and the other directors residing within that district shall represent the authority at large until their terms expire;

(4) if, as a result of the exclusion of land pursuant to Subsection C of Section 72-20-6 NMSA 1978, one or more incumbent directors reside outside of any district, the directors shall represent the authority at large until their terms expire; and



(5) if more than one director represents the authority at large pursuant to Paragraph (3) or (4) of this subsection, the board shall determine by lot the district that will elect a resident to succeed a director-at-large as the term of each director-at-large expires.

C. A director who is a qualified elector and a resident of the district shall be elected by the qualified electors who are residents of that district to serve a six-year term. Elections for directors shall be held pursuant to the Local Election Act.

D. Nothing in this section shall be construed as preventing qualified electors of the authority from being elected or reelected as directors to succeed themselves; provided that they reside in the district from which they are elected.

E. As soon as feasible after each federal decennial census, the board shall assess the existing districts to determine if the districts remain as equal in population as is practicable and, if necessary, shall redistrict the authority into districts that remain contiguous, compact and as equal in population as is practicable; provided that:

(1) a redistricting shall be effective at the next following local election;

(2) an incumbent director whose residence is redistricted out of the district represented by the director shall serve until the next local election, at which a qualified elector who resides within the district shall be elected to fill the unexpired term; and

(3) the board shall notify the county clerk of the new district boundaries."

## **Chapter 79 Section 136 Laws 2018**

SECTION 136. Section 72-20-11 NMSA 1978 (being Laws 2007, Chapter 99, Section 11, as amended) is amended to read:

"72-20-11. NOMINATION OF DIRECTORS.--Written nominations of any candidate as director may be filed with the proper filing officer in accordance with the provisions of the Local Election Act. Each nomination of any candidate shall be signed by not less than fifty qualified electors, regardless of whether or not nominated, shall designate the name of the candidates nominated and shall recite that the subscribers are qualified electors and that the candidates designated are qualified electors of the authority. No written nomination may designate more qualified electors as candidates than there are vacancies. No qualified elector may nominate more than one candidate for any vacancy."

## **Chapter 79 Section 137 Laws 2018**

SECTION 137. Section 72-20-13 NMSA 1978 (being Laws 2007, Chapter 99, Section 13) is amended to read:

"72-20-13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day next following the first day of the month that the term of office begins for members elected in the immediately preceding election, at the office of the board within the authority. Each member of the board, before entering upon the member's official duties, shall take and subscribe on oath that the member will support the constitution of the United States and the constitution and laws of New Mexico and that the member will faithfully and impartially discharge the duties of the office to the best of the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon the director's official duties, give a bond to the authority in the sum of ten thousand dollars (\$10,000) with good and sufficient surety, conditioned for the faithful performance of all of the duties of the director's office, without fraud, deceit or oppression, and the accounting for all money and property coming into the director's hands and the prompt and faithful payment of all money and the delivering of all property coming into the director's custody or control belonging to the authority to the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority, and all such bonds shall be kept on file in the office of the secretary of state."

### **Chapter 79 Section 138 Laws 2018**

SECTION 138. Section 72-20-28 NMSA 1978 (being Laws 2007, Chapter 99, Section 28) is amended to read:

"72-20-28. ELECTIONS.--Each biennial election of directors and any other election of the authority, including an election to seek approval for the issuance of bonds, shall be conducted pursuant to the Local Election Act."

### **Chapter 79 Section 139 Laws 2018**

SECTION 139. Section 73-14-20 NMSA 1978 (being Laws 1975, Chapter 262, Section 3, as amended) is amended to read:

"73-14-20. DEFINITIONS.--As used in Sections 73-14-18 through 73-14-30 NMSA 1978:

A. "benefited area" means that area described by a property appraisal that receives a benefit as a result of the creation of a district for any of the purposes specified in Section 73-14-4 NMSA 1978;

B. "list compiler" means a contractor approved by the board of directors to compile and produce a qualified elector list for a conservancy district;

C. "qualified elector" means an individual who owns real property within the benefited area of the conservancy district and who has provided proof of an ownership interest to one of the sources specified in Subsection B of Section 73-14-20.1 NMSA 1978 within the required time period, or who resides on and owns legal or equitable title in tribal lands and who is over the age of majority;

D. "qualified elector's list" means the list compiled before each election that contains the individual names of all qualified electors; and

E. "residence" means a dwelling that lies partially or completely within the benefited area."

## **Chapter 79 Section 140 Laws 2018**

SECTION 140. Section 73-14-20.1 NMSA 1978 (being Laws 1990, Chapter 48, Section 1, as amended) is amended to read:

### **"73-14-20.1. QUALIFIED ELECTOR LIST.--**

A. The board of directors of the conservancy district may contract for a list compiler before each election to compile and produce a qualified elector's list for the district. The list compiler shall deliver the completed list to the appropriate county clerk no later than one hundred eighty days prior to a district election and update the list every thirty days until ninety days before the election, which list the county clerk shall use for the election. An individual who purchases property ninety days prior to an election and whose name does not appear on the qualified elector's list shall not vote in that election. The individual may become certified to vote in a future election by filing a deed of title with the appropriate county clerk at least ninety days before the next conservancy district election.

B. Names of qualified electors shall be obtained from the records of the county clerk of the appropriate county, the appropriate county assessor of the appropriate county, records of the conservancy district or from the census bureau and enrollment records provided by the pueblos. The county assessor of the appropriate county, the county clerk of the appropriate county and the tribal representatives of the appropriate pueblos shall deliver to the list compiler all records regarding qualified electors of the benefited area no later than the last day of each March before a district election.

C. Updating the qualified elector's list shall consist of adding, for any new qualified elector who has purchased property in the district, the name, address and description of all property owned by the qualified elector in the benefited area and removing the name of any elector who is deceased or who no longer owns property within the benefited area.

D. Proof of ownership of land within the benefited area requires one of the following:

(1) a recorded deed or real estate contract indicating current ownership of land within the benefited area;

(2) an individual's name on county clerk records indicating a description of property the individual owns within the benefited area;

(3) an individual's name on a list compiled by the governing body of a pueblo within the benefited area indicating that the individual named is residing on and has legal or equitable title in the pueblo; or

(4) a current property tax bill indicating ownership of land within the benefited area.

E. The appropriate county clerk shall distribute to each polling place a current qualified elector's list for the appropriate county. The appropriate county clerk shall distribute the qualified elector's list to each polling place within a pueblo located within the benefited area. A qualified elector may vote at any one polling place in the pueblo or county where the elector owns land. An individual who seeks to cast a vote but whose name is not on the qualified elector's list shall not be allowed to vote in that election."

## **Chapter 79 Section 141 Laws 2018**

SECTION 141. Section 73-14-24 NMSA 1978 (being Laws 1975, Chapter 262, Section 7, as amended) is amended to read:

"73-14-24. TIME AND PROCEDURE FOR ELECTION.--

A. The members of the boards of directors created pursuant to the provisions of Sections 73-14-18 through 73-14-30 NMSA 1978 shall be elected pursuant to the Local Election Act.

B. The elections for the members of the board of directors of the conservancy district shall be conducted, counted and canvassed as provided in the Local Election Act."

## **Chapter 79 Section 142 Laws 2018**

SECTION 142. Section 73-14-25 NMSA 1978 (being Laws 1975, Chapter 262, Section 8, as amended) is amended to read:

"73-14-25. DECLARATION OF CANDIDACY--SIGNATURES OF ELECTORS.--

A. A person who desires to become a candidate for election as a member of the conservancy district board of directors shall file a written declaration of candidacy with the proper filing officer in accordance with the provisions of the Local Election Act.

B. The declaration of candidacy shall be accompanied by:

(1) if a candidate for a position representing a county in the conservancy district, a petition signed by at least seventy-five qualified electors of the district who reside in that county; or

(2) if a candidate for the position at large in the conservancy district, a petition signed by at least one hundred twenty-five qualified electors."

### **Chapter 79 Section 143 Laws 2018**

SECTION 143. Section 73-14-28.1 NMSA 1978 (being Laws 1996, Chapter 42, Section 12) is amended to read:

"73-14-28.1. ELECTION.--Elections shall be conducted pursuant to Sections 73-14-18 through 73-14-30 NMSA 1978 and the Local Election Act."

### **Chapter 79 Section 144 Laws 2018**

SECTION 144. Section 73-14-55 NMSA 1978 (being Laws 1943, Chapter 126, Section 2) is amended to read:

"73-14-55. BOARDS OF DIRECTORS--MEMBERSHIP--QUALIFICATIONS.--The boards of directors created in Sections 73-14-54 through 73-14-69 NMSA 1978 shall consist of five directors, each of whom must own real property within the conservancy district that is subject to conservancy district appraisals, assessments, levies and taxes, and each of whom must actually reside within the conservancy district and also within the county from which the director is elected."

### **Chapter 79 Section 145 Laws 2018**

SECTION 145. Section 73-14-57 NMSA 1978 (being Laws 1943, Chapter 126, Section 4, as amended) is amended to read:

"73-14-57. DEFINITION OF "QUALIFIED ELECTORS"--QUALIFIED ELECTOR LIST.--

A. The term "qualified electors", as used in Sections 73-14-54 through 73-14-69 NMSA 1978, means only those persons who have reached the age of majority and, for at least six months prior to the election, have owned, during the entire six-month period, real property situated within the district that is subject to conservancy district appraisals, assessments, levies and taxes.

B. The conservancy district shall compile and deliver a qualified elector list to the appropriate county clerk no later than one hundred eighty days before an election, and update the list every thirty days until ninety days before the election, which list the county clerk shall use for that election."

## **Chapter 79 Section 146 Laws 2018**

SECTION 146. Section 73-14-58 NMSA 1978 (being Laws 1943, Chapter 126, Section 5) is amended to read:

"73-14-58. TERMS--VACANCIES.--Each director shall be elected for a term of six years from and after the date of election and, unless removed from office as provided in Section 73-14-59 NMSA 1978, shall serve until a successor is duly elected and has qualified; provided that at the first election, one director shall be elected for a term of two years, two for a term of four years and two for a term of six years, to be determined according to counties if there is land in any district in more than one county, by the board calling the election. Appointments to fill vacancies shall be for the unexpired term of the director whose office becomes vacant."

## **Chapter 79 Section 147 Laws 2018**

SECTION 147. Section 73-14-61 NMSA 1978 (being Laws 1943, Chapter 126, Section 8, as amended) is amended to read:

"73-14-61. NOTICE OF CANDIDACY--SIGNATURES OF ELECTORS.--Any qualified elector who desires to become a candidate for election as a director shall file with the proper filing officer in accordance with the provisions of the Local Election Act a written notice of candidacy, which shall state the candidate's name and residence within the conservancy district. If the candidate is a candidate at large, the candidate's notice of candidacy shall be signed by twenty qualified electors resident within the district. If the candidate is a candidate only from that portion of the district that lies within one county, the candidate's notice of candidacy shall be signed by ten qualified electors who reside within that particular portion of the district and county from which the candidate seeks to be elected."

## **Chapter 79 Section 148 Laws 2018**

SECTION 148. Section 73-14-62 NMSA 1978 (being Laws 1943, Chapter 126, Section 9, as amended) is amended to read:

"73-14-62. TIME, PLACE AND PROCEDURE FOR ELECTION.--The five director-members of the board of directors created by Sections 73-14-54 through 73-14-69 NMSA 1978 shall be elected in accordance with the provisions of the Local Election Act."

## **Chapter 79 Section 149 Laws 2018**

SECTION 149. Section 73-14-71 NMSA 1978 (being Laws 1961, Chapter 67, Section 3, as amended) is amended to read:

"73-14-71. DEFINITION OF "QUALIFIED ELECTOR"--QUALIFIED ELECTOR LIST.--

A. As used in the provisions of Sections 73-14-70 through 73-14-88 NMSA 1978, "qualified elector" means a natural person who has reached the age of majority and who, for at least six months prior to the election, has owned, either in community or separately, real property located within the district and subject to conservancy district appraisals, assessments, levies and taxes.

B. The conservancy district shall compile and deliver a qualified elector list to the appropriate county clerk no later than one hundred eighty days before an election, and update the list every thirty days until ninety days before the election, which list the county clerk shall use for that election."

## **Chapter 79 Section 150 Laws 2018**

SECTION 150. Section 73-14-73 NMSA 1978 (being Laws 1961, Chapter 67, Section 5) is amended to read:

"73-14-73. ELECTIONS.--Elections shall be held pursuant to the Local Election Act. Conservancy districts formed after July 1, 1961 shall hold their first election as provided in Section 73-14-74 NMSA 1978."

## **Chapter 79 Section 151 Laws 2018**

SECTION 151. Section 73-14-74 NMSA 1978 (being Laws 1961, Chapter 67, Section 6, as amended) is amended to read:

"73-14-74. ELIGIBILITY OF DISTRICT TO HOLD ELECTION.--

A. No election shall be held in an existing conservancy district until the main canals in that district are in such a condition that water can be delivered from them for irrigation on the lands within the district.

B. The first election in any district formed after July 1, 1961 shall be held with the first regular local election occurring after the requirements of Subsection A of this section are fulfilled."

## **Chapter 79 Section 152 Laws 2018**

SECTION 152. Section 73-14-78 NMSA 1978 (being Laws 1961, Chapter 67, Section 10) is amended to read:

"73-14-78. NOTICE OF CANDIDACY--SIGNATURES OF ELECTORS.--Any qualified elector who desires to become a candidate for election as a member of a conservancy district board of directors shall file a written notice of candidacy with the proper filing officer in accordance with the provisions of the Local Election Act. In addition, a notice for candidacy shall be signed by at least ten qualified electors within the conservancy district."

### **Chapter 79 Section 153 Laws 2018**

SECTION 153. Section 73-18-27 NMSA 1978 (being Laws 1955, Chapter 281, Section 3, as amended) is amended to read:

"73-18-27. ELECTIONS.--In each odd-numbered year after 1955, elections shall be called and conducted pursuant to the Local Election Act for the election of directors to succeed any directors whose terms expire in that year."

### **Chapter 79 Section 154 Laws 2018**

SECTION 154. Section 73-18-28 NMSA 1978 (being Laws 1955, Chapter 281, Section 4) is amended to read:

"73-18-28. DIRECTOR-AT-LARGE AND MUNICIPAL DIRECTOR--QUALIFIED ELECTOR LIST.--

A. The director to represent the municipality and the director-at-large for the period from October 1955 to October 1957 shall be selected at the September 1955 meeting by the board of directors of the conservancy district as it exists prior to the election. The members shall be elected from the membership of the previously existing board if there are qualified members of the board willing to serve for the additional two years. If there are no members of the existing board willing to serve for the additional period of two years or if there is only one, the existing board may select one or both of the directors from qualified electors of the district for the position or positions.

B. In the election to be held in October 1957, a director to represent the municipal voting precinct shall be elected from the qualified electors of the municipality, and a director-at-large shall be elected from the qualified electors of the district.

C. Every resident, otherwise qualified, owning real estate of any character within the district shall have one vote for director-at-large. Each elector resident of the municipal voting precinct shall have one vote for municipal director. The right of a voter to vote for municipal director shall not be affected by the elector voting in any other election precinct in which the elector may own class "A" land.



D. The conservancy district shall compile and deliver a qualified elector list to the appropriate county clerk no later than one hundred eighty days before an election, and update the list every thirty days until ninety days before the election, which list the county clerk shall use for that election."

### **Chapter 79 Section 155 Laws 2018**

SECTION 155. Section 73-18-33 NMSA 1978 (being Laws 1955, Chapter 281, Section 9, as amended) is amended to read:

"73-18-33. QUALIFICATIONS OF DIRECTORS.--The director-at-large shall be the owner of class "A" land within the district and shall be a resident of the district. The director for the municipal election precinct shall be a resident and shall be the owner of real estate within the district boundaries of the municipality. A director representing a district election precinct outside the municipality shall be a resident of the district and the owner of irrigable land within the voting precinct for which the director is a director."

### **Chapter 79 Section 156 Laws 2018**

SECTION 156. Section 73-18-34 NMSA 1978 (being Laws 1955, Chapter 281, Section 10, as amended) is amended to read:

"73-18-34. BECOMING A CANDIDATE FOR DIRECTOR.--Any person wishing to become a candidate for the office of director in any district shall file a declaration of candidacy pursuant to the provisions of the Local Election Act, stating the election precinct for which the person is a candidate, accompanied by a petition signed by not less than ten qualified electors of the election precinct for which the person is a candidate to represent. No declaration of candidacy shall be accepted unless accompanied by such petition, signed by electors."

### **Chapter 79 Section 157 Laws 2018**

SECTION 157. Section 73-18-35 NMSA 1978 (being Laws 1955, Chapter 281, Section 11) is amended to read:

"73-18-35. TERM OF OFFICE FOR DIRECTOR.--The regular term of office for a director is four years, and the director shall serve until a successor has been chosen and has qualified. A director shall qualify by taking an oath of office. Newly elected directors shall take office on the date that their terms of office begin following the election of the director."

### **Chapter 79 Section 158 Laws 2018**

SECTION 158. Section 73-18-41 NMSA 1978 (being Laws 1955, Chapter 281, Section 17) is amended to read:

"73-18-41. APPLICATION OF LOCAL ELECTION ACT.--In any election held under Sections 73-18-25 through 73-18-43 NMSA 1978, the Local Election Act shall be applicable except as to the requirement for registration and residence in state, county or precinct as a qualification of an elector in offering to vote."

### **Chapter 79 Section 159 Laws 2018**

SECTION 159. Section 73-20-1 NMSA 1978 (being Laws 1957, Chapter 210, Section 1) is amended to read:

"73-20-1. SHORT TITLE.--Sections 73-20-1 through 73-20-24 NMSA 1978 may be cited as the "Watershed District Act"."

### **Chapter 79 Section 160 Laws 2018**

SECTION 160. Section 73-20-9 NMSA 1978 (being Laws 1957, Chapter 210, Section 9, as amended) is amended to read:

"73-20-9. REFERENDUM.--After the board of supervisors has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for creation of the proposed watershed district, it shall consider the question whether the operation of a district within the proposed boundaries with the powers conferred upon such districts in Section 73-20-13 NMSA 1978 is administratively practicable and feasible. To assist the board of supervisors in this determination, the board shall, within a reasonable time after entry of the finding that there is need for the organization of the district and the determination of the boundaries of the district, hold a referendum within the proposed district upon the proposition of the creation of the district. Due notice of the referendum shall be given as provided in the Local Election Act, except that notice sent to absentee landowners shall also inform them of their right to request a ballot. Ballots shall be sent to all absentee landowners upon request and they may vote by return ballot by first class mail."

### **Chapter 79 Section 161 Laws 2018**

SECTION 161. Section 73-20-10 NMSA 1978 (being Laws 1957, Chapter 210, Section 10, as amended) is amended to read:

"73-20-10. QUALIFIED ELECTOR LIST.--Only owners of lands lying within the boundaries of the territory, as determined by the board, shall be eligible to vote in the referendum or in elections following formation of the district. The board shall compile and deliver to the appropriate county clerks a list of qualified electors one hundred eighty days prior to a district election, and update the list every thirty days until ninety days before an election, which list the county clerk shall use for the election."

### **Chapter 79 Section 162 Laws 2018**

SECTION 162. Section 73-20-11 NMSA 1978 (being Laws 1957, Chapter 210, Section 11, as amended) is amended to read:

"73-20-11. VOTES--RESULTS.--The votes shall be counted in accordance with the provisions of the Local Election Act. If a majority of the votes cast favors creation of the district, the county canvassing board shall certify the results to the county clerk in the county involved. Upon proper recording of the action, the watershed district shall be duly created. After recording, the certification shall be filed with the New Mexico department of agriculture."

## **Chapter 79 Section 163 Laws 2018**

SECTION 163. Section 73-20-12 NMSA 1978 (being Laws 1957, Chapter 210, Section 12, as amended) is amended to read:

"73-20-12. DIRECTORS--ELECTION.--

A. At the next regular local election held pursuant to the Local Election Act after a watershed district is created, the board of supervisors of the soil and water conservation district involved shall cause an election to be held for the election of a board of directors of the watershed district. The board shall consist of five members. The first board shall determine by lot from among its membership two members to serve terms of two years, two members to serve terms of three years and one member to serve a term of four years. Thereafter, as these initial terms expire, their replacements shall be elected for terms of four years. Vacancies occurring before the expiration of a term shall be filled by the remaining members of the board for the unexpired term. Two or more vacancies occurring simultaneously shall be filled by appointment by the board of supervisors. The board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed district.

B. If the territory embraced within a watershed district lies within more than one soil and water conservation district, each additional soil and water conservation district having a minority of the land involved in the watershed shall be entitled to elect three additional directors. These additional directors after their election shall determine by lot one of their number to serve a term of two years, one a term of three years and one a term of four years. Thereafter, their successors shall be elected for terms of four years. The representatives of each of these minority districts shall fill vacancies in the district's membership for the unexpired term.

C. The board of directors shall annually elect from its membership a chair, secretary and treasurer. The treasurer shall execute an official bond for the faithful performance of the duties of office to be approved by the board of directors. The bond shall be executed with at least three solvent personal sureties whose solvency shall exceed the amount of the bond, or by a surety company authorized to do business in this state, and shall be in an amount determined by the board of directors. If the

treasurer is required to execute a surety company bond, the premium of the bond shall be paid by the board of directors.

D. The board of directors shall prepare and submit to the department of finance and administration such reports as it may require from among those required to be submitted by other political subdivisions.

E. Each person desiring to be a director of a watershed district shall file a nominating petition with the proper filing officer in accordance with the provisions of the Local Election Act, signed by ten or more landowners within the watershed districts of the county involved, or, if less than fifty landowners are involved, a majority of such landowners. If the candidates nominated do not exceed the positions available, they shall be declared elected. A person shall not be eligible to be a director of a watershed district if the person is not a landowner in the district in which the person seeks election."

## **Chapter 79 Section 164 Laws 2018**

SECTION 164. Section 73-20-14 NMSA 1978 (being Laws 1957, Chapter 210, Section 14, as amended) is amended to read:

"73-20-14. BONDS.--

A. Bonds authorized by Section 73-20-13 NMSA 1978 shall not be issued until proposed by order or resolution of the board of directors, specifying the purpose for which the funds are to be used, and the proposed undertaking, the amount of bonds to be issued, the rate of interest they are to bear and the amount of any necessary assessment levy in excess of the maximum authorized in Section 73-20-17 NMSA 1978 to establish a sinking fund for the liquidation of bonds as provided in Section 73-20-17 NMSA 1978. A copy of the order or resolution shall be certified to the board of supervisors.

B. The board of supervisors shall conduct a hearing on the proposal after notice given pursuant to Section 73-20-8 NMSA 1978. If it appears that the proposal is within the scope and purpose of the Watershed District Act and meets all other requirements of the law, the proposal shall be submitted to the landowners of the district at an election held pursuant to the Local Election Act.

C. If two-thirds of the landowners voting favor the proposal, the bonds may be issued."

## **Chapter 79 Section 165 Laws 2018**

SECTION 165. Section 73-20-21 NMSA 1978 (being Laws 1957, Chapter 210, Section 20, as amended) is amended to read:

"73-20-21. ADDITION OF LAND.--

A. Any one or more owners of land may petition the board of supervisors to have their lands added to a watershed district. The petition shall define the boundaries of the land desired to be annexed, the number of acres of land involved and other information pertinent to the proposal. When the boundary described embraces lands of others than the petitioners, the petition shall so state and shall be signed by twenty-five or more of the landowners in the territory described, if fifty or more such owners are involved, or by a majority if less than fifty landowners are involved.

B. Within thirty days after the petition is filed, the board shall cause due notice to be given as provided in Section 73-20-8 NMSA 1978 of a hearing on the petition. All interested parties shall have a right to attend the hearing and be heard. The board shall determine whether the lands described in the petition or any portion of them shall be included in the district. If all the landowners in the territory involved are not petitioners, a referendum shall be held within the territory in accordance with the Local Election Act before making a final determination. If it is determined that the land should be added, this fact shall be certified by the board of supervisors to the county clerk in the county involved. After recording, the certification shall be filed with the New Mexico department of agriculture."

## **Chapter 79 Section 166 Laws 2018**

SECTION 166. Section 73-20-23 NMSA 1978 (being Laws 1957, Chapter 210, Section 22, as amended by Laws 2013, Chapter 17, Section 2 and by Laws 2013, Chapter 169, Section 2) is amended to read:

"73-20-23. DISCONTINUANCE OF DISTRICTS.--

A. At any time after five years from the organization of a watershed district, a majority of the landowners in the district may file a petition with the board of supervisors and the board of directors requesting that the existence of the district be discontinued if all obligations of the district have been met. The petition shall state the reasons for discontinuance and demonstrate that all obligations of the district have been met.

B. After giving notice as defined in Section 73-20-8 NMSA 1978, the board of supervisors may conduct hearings on the petition as may be necessary to assist it in making a determination.

C. Within sixty days after petition is filed, a referendum shall be held pursuant to the provisions of the Local Election Act.

D. If a majority of the votes cast in the referendum favors the discontinuance of the district and it is found that all obligations have been met, the board of supervisors shall make a determination that the watershed district shall be

discontinued. A copy of the determination shall be certified by the clerk of the county involved for recording. After recording, the certification shall be filed with the New Mexico department of agriculture."

## **Chapter 79 Section 167 Laws 2018**

SECTION 167. Section 73-20-37 NMSA 1978 (being Laws 1965, Chapter 137, Section 11, as amended) is amended to read:

"73-20-37. DISTRICT SUPERVISORS--ELECTION AND APPOINTMENT--NEW DISTRICTS.--

A. The governing body of a district shall be composed of five supervisors who shall be residents of the district and shall be elected pursuant to the provisions of the Local Election Act; provided, however, that two additional supervisors may be appointed to the governing body of each district by the commission in accordance with the provisions of the Soil and Water Conservation District Act. Four elected supervisor positions of each district shall be filled by landowners within the defined geographical area of their district. One elected supervisor position shall be designated supervisor-at-large, and the supervisor filling that position may serve the district without landowner qualification.

B. In the first election of supervisors to serve a newly organized district, two supervisors shall be elected for terms of four years and three supervisors shall be elected for terms of two years. Thereafter, each elected supervisor shall serve a term of four years and shall continue in office until a successor has been elected or appointed and has completed an oath of office. A vacant unexpired term of the office of an elected supervisor shall be filled by appointment by the remaining supervisors of the district. Two or more vacant unexpired terms occurring simultaneously in the same district shall be filled by appointment by the commission.

C. Appointed interim supervisors may continue to serve as appointed supervisors until their successors are elected at the next local election pursuant to the Local Election Act."

## **Chapter 79 Section 168 Laws 2018**

SECTION 168. Section 73-20-38 NMSA 1978 (being Laws 1965, Chapter 137, Section 12, as amended) is amended to read:

"73-20-38. DISTRICT SUPERVISORS--ELECTION AND APPOINTMENT--ORGANIZED DISTRICTS.--

A. Successors to supervisors whose terms end in a calendar year shall be elected pursuant to the Local Election Act. Elections shall be called, conducted and canvassed in accordance with the Local Election Act.

B. By June 15 of each year, the district supervisors may submit to the commission a list of persons interested in the district and who by experience or training are qualified to serve as supervisors. The commission may appoint from the list submitted two persons to serve as supervisors if it is the determination of the commission that the appointments are necessary or desirable and would benefit or facilitate the work and functions of the district. In the event a list is not submitted to the commission by the supervisors by June 15, the commission may appoint two supervisors qualified to serve by training or experience. Appointed supervisors shall serve a term of one year and shall have the same powers and perform the same duties as elected supervisors. Successors to appointed supervisors, or replacement-appointed supervisors in the event of vacancy, shall be appointed by the commission from a list of candidates in accordance with the provisions of this subsection."

## **Chapter 79 Section 169 Laws 2018**

SECTION 169. Section 73-20-46 NMSA 1978 (being Laws 1965, Chapter 137, Section 20, as amended) is amended to read:

"73-20-46. DISTRICT ASSESSMENTS.--

A. In the event a district is unable to meet or bear the expense of the duties imposed upon it by the Soil and Water Conservation District Act, the supervisors may adopt a resolution that, to be effective, shall be approved by referendum in the district and that shall provide for an annual levy in a stated amount not exceeding five dollars (\$5.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, of real property within the district, except that real property within incorporated cities and towns in the district may be excluded. The referendum held to approve or reject the resolution of the supervisors shall be conducted pursuant to the Local Election Act. After the initial authorization is approved by referendum, the supervisors shall adopt a resolution in each following year authorizing the levy.

B. A resolution authorized under Subsection A of this section shall not be effective, and neither a referendum nor a levy is authorized, unless the resolution is submitted to and approved in writing by the commission.

C. In the event a resolution of the supervisors is adopted and approved in accordance with the provisions of Subsection A of this section, the supervisors of the district shall certify by the fifteenth of July of each year to the county assessor of each county in which there is situate land subject to the district assessment:

(1) a copy of the resolution of the supervisors;

(2) the results of any referendum held in the year the certification is made; and

(3) a list of landowners of the district and a description of the land owned by each that is subject to assessment.

D. A county assessor shall indicate the information on the tax schedules, compute the assessment and present the district assessment by regular tax bill.

E. The district assessment shall be collected by the county treasurer of each county in which taxable district land is situate in the same manner and at the same time that county ad valorem taxes are levied. The conditions, penalties and rates of interest applicable to county ad valorem taxation apply to the levy and collection of district assessments. A county treasurer shall be entitled to a collection fee equal to the actual costs of collection or four percent of the money collected from the levy of the district assessment, whichever is the lesser.

F. District funds, regardless of origin, shall be transferred to and held by the supervisors and shall be expended for district obligations and functions. The supervisors shall prepare an annual budget and submit it for approval to the commission and to the local government division of the department of finance and administration. All district funds shall be expended in accordance with the approved budgets.

G. In the event the supervisors of a district determine that there are or will be sufficient funds available for the operation of the district for any year for which an assessment is to be levied, they shall, by resolution, direct the assessor of each county in which taxable district land is situate, by July 15 of each year, to decrease the district assessment or to delete the district assessment reflected on the tax schedules.

H. Any levy authorized by the Soil and Water Conservation District Act, and any loan or other indebtedness authorized by that act that will require a levy, shall be based exclusively on or levied exclusively on the real property in the district, except that real property within incorporated cities and towns may be excluded."

## **Chapter 79 Section 170 Laws 2018**

SECTION 170. Section 73-21-14 NMSA 1978 (being Laws 1943, Chapter 80, Section 13, as amended) is amended to read:

"73-21-14. ELECTIONS.--

A. In any district, except a district created pursuant to a petition signed by the chair of the board of county commissioners of a county, in accordance with the Local Election Act there shall be elected by the qualified electors of the district one member of the board to serve for a term of six years, except that if the district elects to adopt four-year terms, the member shall serve for a term of four years.



B. In any district created pursuant to a petition signed by the chair of the board of county commissioners of a county, in the odd-numbered year after the organization of the district and every second year thereafter, there shall be elected by the qualified electors of the district at least two, but no more than three, members of the board to serve for a term of two years. The election shall be held in accordance with the provisions of the Local Election Act.

C. Nominations may be filed with the proper filing officer in accordance with the provisions of the Local Election Act. If within ninety days prior to a board election the district publishes materials that describe the qualifications, experience and accomplishments of incumbents, equal space shall be made available without charge for similar information provided by opponents seeking a position on the board."

## **Chapter 79 Section 171 Laws 2018**

SECTION 171. Section 73-21-28 NMSA 1978 (being Laws 1943, Chapter 80, Section 25, as amended) is amended to read:

"73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.--Whenever the board shall, by resolution, determine that the interest of the district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, or the making of any contract with the United States or other persons or corporations, to carry out the objects or purposes of the district, requiring the creation of a general obligation indebtedness of five thousand dollars (\$5,000) or more, secured by property tax revenue from within the district, the board shall order the submission of the proposition of issuing the obligations or bonds or creating other indebtedness to the qualified electors of the district at a district election held in accordance with the provisions of the Local Election Act. The declaration of public interest or necessity required in this section and the provision for the holding of the election may be included within one and the same resolution. The resolution, in addition to the declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred and the maximum rate of interest to be paid on the indebtedness. The resolution shall also announce the date upon which the election shall be held; provided that the date is not in conflict with the provisions of Section 1-12-71 NMSA 1978."

## **Chapter 79 Section 172 Laws 2018**

SECTION 172. TEMPORARY PROVISION.--

A. The term of an elected local government officer that was set to expire on or before June 30, 2020 pursuant to the governing statutes of that local government in effect before the effective date of this act shall expire on December 31, 2019, and that officer's successor shall be elected in the regular local election held on the first

Tuesday after the first Monday of November 2019 for a term beginning on January 1, 2020.

B. The term of an elected local government officer that was set to expire on or after July 1, 2020 but on or before June 30, 2022 pursuant to the governing statutes of that local government in effect before the effective date of this act shall expire on December 31, 2021, and that officer's successor shall be elected in the regular local election held on the first Tuesday after the first Monday of November 2021 for a term beginning on January 1, 2022.

C. The term of an elected local government officer that was set to expire on or after July 1, 2022 pursuant to the governing statutes of that local government in effect before the effective date of this act shall expire on December 31, 2023, and that officer's successor shall be elected in the regular local election held on the first Tuesday after the first Monday of November 2023 for a term beginning on January 1, 2024.

D. The provisions of this section do not apply to the elections for municipal officers, the lengthening or shortening of terms of which shall be determined by ordinance of the municipality opting into having its municipal officers elected at the regular local election.

E. The provisions of this section only apply to local government officers whose elections are subject to the provisions of the Local Election Act but do not apply to conservancy district or watershed district elections, which are subject to the provisions of Section 173 of this act.

## **Chapter 79 Section 173 Laws 2018**

### **SECTION 173. TEMPORARY PROVISION.--**

A. The term of a conservancy district or watershed district board member that was set to expire on or before June 30, 2024 pursuant to the governing statutes of that district in effect before July 1, 2022 shall expire on December 31, 2023, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2023 for a term beginning on January 1, 2024.

B. The term of a conservancy district or watershed district board member that was set to expire on or after July 1, 2024 but on or before June 30, 2026 pursuant to the governing statutes of that district in effect before July 1, 2022 shall expire on December 31, 2025, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2025 for a term beginning on January 1, 2026.

C. The term of a conservancy district or watershed district board member that was set to expire on or after July 1, 2026 pursuant to the governing statutes of that district in effect before July 1, 2022 shall expire on December 31, 2027, and that

member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2027 for a term beginning on January 1, 2028.

## **Chapter 79 Section 174 Laws 2018**

SECTION 174. TEMPORARY PROVISION.--References in law to the Municipal Election Code and to the School Election Law shall be deemed to be references to the Local Election Act.

## **Chapter 79 Section 175 Laws 2018**

SECTION 175. REPEAL.--

A. Sections 1-6-19, 1-22-5, 1-22-6, 1-22-12, 1-22-14, 1-23-1 through 1-23-7, 21-13-18.1, 21-13-18.2, 21-16-21, 21-16-22, 72-16-29 through 72-16-34, 72-17-29 through 72-17-34, 72-18-36 through 72-18-41, 72-19-29 through 72-19-34, 72-20-29 through 72-20-34, 73-21-29 and 73-21-30 NMSA 1978 (being Laws 1969, Chapter 54, Section 1, Laws 1985, Chapter 168, Sections 7, 8, 14 and 16, Laws 1987, Chapter 160, Sections 1 through 6, Laws 1991, Chapter 105, Section 43, Laws 1987, Chapter 160, Section 7, Laws 1993, Chapter 75, Sections 3 and 4, Laws 1964 (1st S.S.), Chapter 12, Sections 6 and 7, Laws 1963, Chapter 311, Sections 29 through 34, Laws 1967, Chapter 156, Sections 29 through 34, Laws 1981, Chapter 377, Sections 36 through 41, Laws 1990, Chapter 14, Sections 29 through 34, Laws 2007, Chapter 99, Sections 29 through 34 and Laws 1943, Chapter 80, Sections 26 and 27, as amended) are repealed.

B. Sections 3-8-1 through 3-8-14, 3-8-16, 3-8-17, 3-8-18 through 3-8-40, 3-8-41, 3-8-43 through 3-8-80, 3-9-1, 3-9-3 through 3-9-13.1, 3-9-15, 3-9-16 and 3-14-7 NMSA 1978 (being Laws 1985, Chapter 208, Sections 9 through 14, Laws 1991, Chapter 123, Section 2, Laws 1965, Chapter 300, Section 14-8-5, Laws 1985, Chapter 208, Sections 16 through 22 and 24 through 26, Laws 1971, Chapter 306, Sections 8 and 9, Laws 1985, Chapter 208, Sections 29 through 32, Laws 1965, Chapter 300, Sections 14-8-3, 14-8-4, 14-8-8 and 14-8-6, Laws 1985, Chapter 208, Section 37, Laws 1965, Chapter 300, Section 14-8-9, Laws 1971, Chapter 306, Section 10, Laws 1965, Chapter 300, Section 14-8-13, Laws 1985, Chapter 208, Sections 41 and 42, Laws 1965, Chapter 300, Section 14-8-2, Laws 1985, Chapter 208, Sections 44 and 45, Laws 2009, Chapter 278, Section 31, Laws 1985, Chapter 208, Sections 46 through 49 and 51 through 60, Laws 1965, Chapter 300, Section 14-8-14, Laws 1985, Chapter 208, Sections 62 through 69, Laws 1965, Chapter 300, Section 14-8-16, Laws 1985, Chapter 208, Sections 71 through 88, Laws 1973, Chapter 375, Sections 2, 1, 3 and 6 through 10, Laws 1985, Chapter 208, Sections 98 through 100, Laws 1973, Chapter 375, Section 11, Laws 2003, Chapter 244, Section 19, Laws 1973, Chapter 375, Sections 13 and 14 and Laws 1965, Chapter 300, Section 14-13-7, as amended) are repealed.

## **Chapter 79 Section 176 Laws 2018**

SECTION 176. DELAYED REPEAL.--Sections 73-14-27, 73-14-28, 73-14-29, 73-14-31 through 73-14-31.3, 73-14-63 through 73-14-65, 73-14-80 through 73-14-86 and 73-18-37 through 73-18-40 NMSA 1978 (being Laws 1975, Chapter 262, Sections 10 through 12 and 14, Laws 1996, Chapter 42, Sections 15 and 16, Laws 1999, Chapter 168, Section 8, Laws 1943, Chapter 126, Sections 10 through 12, Laws 1961, Chapter 67, Sections 12 through 17, Laws 1996, Chapter 42, Section 17, Laws 1961, Chapter 67, Section 18 and Laws 1955, Chapter 281, Sections 13 through 16, as amended) are repealed effective July 1, 2022.

## **Chapter 79 Section 177 Laws 2018**

### SECTION 177. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 138 and 167 through 176 of this act is July 1, 2018.

B. The effective date of the provisions of Sections 139 through 166 of this act is July 1, 2022.

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HLELC/House Bill 98, aa

Approved March 7, 2018

## **LAWS 2018, CHAPTER 80**

### AN ACT

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; AUTHORIZING EXPENDITURES FROM CERTAIN FUNDS AND BALANCES; REAPPROPRIATING BALANCES; CLARIFYING CONDITIONS FOR THE ISSUANCE OF BONDS; ESTABLISHING CONDITIONS FOR THE EXPENDITURE OF SEVERANCE TAX BOND PROCEEDS; ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

## **Chapter 80 Section 1 Laws 2018**

SECTION 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--  
APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not to exceed the total of the amounts authorized for purposes specified in this act. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated for the purposes specified in this act.

B. The agencies named in this act shall certify to the state board of finance when the money from the proceeds of the severance tax bonds appropriated in this section is needed for the purposes specified in the applicable section of this act. If an agency has not certified the need for severance tax bond proceeds for a particular project by the end of fiscal year 2020, the authorization for that project is void.

C. Before an agency may certify for the need of severance tax bond proceeds, the project must be developed sufficiently so that the agency reasonably expects to:

(1) incur within six months after the applicable bond proceeds are available for the project a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project; and

(2) spend at least eighty-five percent of the bond proceeds within three years after the applicable bond proceeds are available for the project.

D. Except as otherwise specifically provided by law:

(1) the unexpended balance from the proceeds of severance tax bonds appropriated in this act for a project shall revert to the severance tax bonding fund no later than the following dates:

(a) for a project for which severance tax bond proceeds were appropriated to match federal grants, six months after completion of the project;

(b) for a project for which severance tax bond proceeds were appropriated to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the severance tax bond proceeds were made available for the purchase; and

(c) for any other project for which severance tax bonds were appropriated, within six months of completion of the project, but no later than the end of fiscal year 2022; and

(2) all remaining balances from the proceeds of severance tax bonds appropriated for a project in this act shall revert to the severance tax bonding fund three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

E. Except for appropriations to the capital program fund, money from severance tax bond proceeds provided pursuant to this act shall not be used to pay indirect project costs.

F. Except for a project that was originally funded using a tax-exempt loan or bond issue, a project involving repayment of debt previously incurred shall be funded through the issuance of taxable severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued.

G. 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 80 Section 2 Laws 2018**

### **SECTION 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--**

A. Except as otherwise specifically provided by law:

(1) the unexpended balance of an appropriation made in this act from the general fund or other state funds shall revert no later than the following dates:

(a) for a project for which an appropriation was made to match federal grants, six months after completion of the project;

(b) for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(c) for any other project for which an appropriation was made, within six months of completion of the project, but no later than the end of fiscal year 2020; and

(2) all remaining balances from an appropriation made in this act for a project shall revert three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

B. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.

C. Except as provided in Subsection E of this section, the balance of an appropriation made from the general fund shall revert in the time frame set forth in Subsection A of this section to the capital projects fund.

D. Except as provided in Subsection E of this section, the balance of an appropriation made from other state funds shall revert in the time frame set forth in Subsection A of this section to the originating fund.

E. The balance of an appropriation made from the general fund or other state funds to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert in the time frame set forth in Subsection A of this section to the tribal infrastructure project fund.

F. 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 80 Section 3 Laws 2018**

SECTION 3. ADMINISTRATIVE OFFICE OF THE COURTS PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the administrative office of the courts that the need exists for the issuance of the bonds, one million four hundred thousand dollars (\$1,400,000) is appropriated to the administrative office of the courts to purchase and install security systems and for technology upgrades related to security systems at magistrate courts and judicial district courts statewide.

### **Chapter 80 Section 4 Laws 2018**

SECTION 4. ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the administrative office of the district attorneys that the need exists for the issuance of the bonds, one hundred twenty-five thousand dollars (\$125,000) is appropriated to the administrative office of the district attorneys to purchase and install information technology and related system upgrades, including equipment, furniture, infrastructure, storage, security appliances and security monitoring devices, for district attorney offices statewide.

## Chapter 80 Section 5 Laws 2018

SECTION 5. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the aging and long-term services department that the need exists for the issuance of the bonds, the following amounts are appropriated to the aging and long-term services department for the following purposes:

1. thirty-five thousand dollars (\$35,000) to purchase, equip and install an emergency generator at the senior center in Eagle Nest in Colfax county;
2. seventy thousand dollars (\$70,000) to plan, design, construct, equip and furnish improvements, including accessible sidewalks, a parking lot, lighting, a covered entry and landscaping, for the senior center in Fort Sumner in De Baca county;
3. thirty-five thousand dollars (\$35,000) to design, construct, purchase, equip and replace the heating, ventilation and air conditioning system and to purchase and install kitchen equipment at La Loma senior center in Guadalupe county;
4. thirty-five thousand dollars (\$35,000) to design, construct, purchase, equip and replace the heating, ventilation and air conditioning system and to purchase and install kitchen equipment in the Puerto de Luna senior center in Santa Rosa in Guadalupe county;
5. eighty thousand dollars (\$80,000) to plan, design and construct improvements and to purchase equipment for the Roy senior center in Roy in Harding county;
6. seventy-five thousand dollars (\$75,000) to plan, design, purchase, construct and equip a building, including substructure, heating, ventilation and air conditioning, plumbing, electrical system, kitchen equipment and furniture, for a senior center in Hondo in Lincoln county;
- ~~7. sixty-five thousand dollars (\$65,000) to acquire land and to plan, design, purchase and construct a facility for a regional senior center in Gallup in McKinley county;] *LINE-ITEM VETO*~~
8. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including accessibility improvements, parking lot improvements, roofing and wastewater connections, to the Ramah senior center in McKinley county;
9. ninety thousand dollars (\$90,000) to plan, design and construct improvements, including roofing, parking lot and accessibility features, to the senior center in Thoreau in McKinley county;



10. twenty-five thousand dollars (\$25,000) to plan, design and construct a senior center in Wagon Mound in Mora county;

11. sixty thousand dollars (\$60,000) to plan, design, construct, equip and renovate a senior center, including parking lot improvements, in Mescalero in Otero county;

12. fifty-nine thousand dollars (\$59,000) to purchase and install kitchen and meals equipment, including a commercial stove, a commercial kettle, a commercial mixer and a commercial dishwasher, in the Las Vegas senior center in Las Vegas in San Miguel county;

13. twenty thousand dollars (\$20,000) to purchase and equip home meal delivery vehicles for Torrance county;

14. eighteen thousand four hundred dollars (\$18,400) to purchase, equip and install a replacement walk-in refrigerator/freezer at the Clayton senior citizens center in Clayton in Union county;

15. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip renovations and to improve code compliance at the Belen senior center in Belen in Valencia county;

16. ninety thousand dollars (\$90,000) to plan, design, purchase and install kitchen and meals equipment at the Belen senior center in Belen in Valencia county;

17. sixteen thousand five hundred dollars (\$16,500) to purchase and install information technology, including related furniture, equipment and infrastructure, in the Meadowlake senior center in Valencia county; and

18. twenty-two thousand dollars (\$22,000) to plan, design, purchase, construct and install a heating, ventilation and air conditioning system, including furnishings and equipment, in the Del Rio senior center in Rio Communities in Valencia county.

## **Chapter 80 Section 6 Laws 2018**

SECTION 6. BERNALILLO COUNTY METROPOLITAN COURT PROJECT-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Bernalillo county metropolitan court that the need exists for the issuance of the bonds, one million dollars (\$1,000,000) is appropriated to the Bernalillo county metropolitan court to plan, design, construct, furnish and equip courtrooms, judges' chambers, jury rooms and public and restricted access areas on the fourth floor of the Bernalillo county metropolitan court courthouse in Albuquerque in Bernalillo county.

## **Chapter 80 Section 7 Laws 2018**

SECTION 7. BORDER AUTHORITY PROJECT--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 1 of this act, upon certification by the border authority that the need exists for the issuance of the bonds, five hundred thousand dollars (\$500,000) is appropriated to the border authority to plan, design and construct a flood control structure, including land acquisition and environmental assessments, at the Columbus port of entry in Columbus in Luna county.

## **Chapter 80 Section 8 Laws 2018**

SECTION 8. CAPITAL PROGRAM FUND PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the capital program fund that the need exists for the issuance of the bonds, the following amounts are appropriated to the capital program fund for the following purposes:

1. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip renovations to the client cottages, including client hygiene areas and staff stations, at the youth diagnostic and development center in Albuquerque in Bernalillo county;
2. one million five hundred thousand dollars (\$1,500,000) to purchase and install equipment and to plan, design, construct, renovate and furnish facilities and for infrastructure improvements, including roofs, heating, ventilation and air conditioning systems, lighting and interior service windows, at the Albert Amador building in Espanola in Rio Arriba county, the Harriet Sammons building in Farmington in San Juan county and the James Murray building in Hobbs in Lea county;
3. four hundred thousand dollars (\$400,000) to plan, design, construct, renovate, furnish and equip commission for the blind facilities in Bernalillo and Otero counties to comply with the Americans with Disabilities Act of 1990;
4. one million dollars (\$1,000,000) to purchase and install equipment and infrastructure improvements, including security system upgrades and servers, and to plan, design, construct, renovate, furnish and equip facilities at the youth diagnostic and development center in Albuquerque in Bernalillo county, the Camino Nuevo youth center in Albuquerque in Bernalillo county and the John Paul Taylor center in Las Cruces in Dona Ana county;
5. five million one hundred thousand dollars (\$5,100,000) to plan, design, construct, equip, renovate, upgrade and furnish a facility or to expand an existing state-owned site to house the department of health vital records and health statistics bureau in Santa Fe in Santa Fe county;
6. two hundred seventy thousand dollars (\$270,000) to plan, design, construct, replace, purchase and install improvements, including exterior sliding doors

and fencing, at the New Mexico state veterans' home in Truth or Consequences in Sierra county;

7. four hundred thousand dollars (\$400,000) to plan, design, repair and upgrade the heating, ventilation and air conditioning system at the New Mexico state veterans' home in Truth or Consequences in Sierra county;

8. two million dollars (\$2,000,000) to replace, repair, renovate, purchase and install emergency generators at correctional facilities statewide;

9. four million six hundred forty-five thousand dollars (\$4,645,000) to plan, design, construct, renovate, furnish, equip, repair, purchase and install equipment and improve infrastructure, including roofs, replacement of heating, ventilation and air conditioning systems and fire suppression, sewer and security systems upgrades, at correctional facilities statewide;

10. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish, equip, purchase and install equipment and for facility upgrades at department of health facilities statewide;

11. one million dollars (\$1,000,000) to plan, design, construct, renovate, furnish and equip state police district offices, including roadway and parking lot improvements, erosion control and the repair or replacement of heating, ventilation and air conditioning systems and surveillance systems, at district offices statewide;

12. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, improve, renovate, remediate, furnish and equip facilities, including infrastructure upgrades, at state-owned facilities statewide; and

13. five hundred thousand dollars (\$500,000) to plan, design, construct, renovate and furnish and to purchase and install equipment, including making other improvements to address building code compliance issues, at offices of the workforce solutions department statewide.

## **Chapter 80 Section 9 Laws 2018**

SECTION 9. CULTURAL AFFAIRS DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the cultural affairs department that the need exists for the issuance of the bonds, the following amounts are appropriated to the cultural affairs department for the following purposes:

1. two hundred eleven thousand three hundred dollars (\$211,300) to plan, design, construct, equip, renovate and improve the facilities, exhibits and site, including purchase and installation of furniture and equipment, at the New Mexico museum of natural history and science in Albuquerque in Bernalillo county;

~~[2. two hundred fifty-nine thousand five hundred dollars (\$259,500) to purchase a robotic dinosaur and to plan, design, construct and install an exhibit at the New Mexico museum of natural history and science in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

3. four hundred fifty-five thousand dollars (\$455,000) to plan, design, repair and replace heating, ventilation and air conditioning systems at the national Hispanic cultural center in Albuquerque in Bernalillo county;

4. five hundred thirty-five thousand ninety-nine dollars (\$535,099) to plan, design, construct, renovate, repair, furnish, equip and make other improvements to the site, facilities, theaters and exhibits, including the welcome center, art museum and annex warehouse, at the national Hispanic cultural center in Albuquerque in Bernalillo county;

5. one hundred forty-five thousand dollars (\$145,000) to plan, design, construct, renovate, furnish, equip and improve the Fort Selden historic site, including historic ruins preservation, in Dona Ana county;

6. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, repair, furnish, equip and make other improvements to the site, facilities and exhibits at the Taylor-Barela-Reynolds-Mesilla historic site in Dona Ana county;

7. twenty thousand dollars (\$20,000) to plan, design, construct, renovate, furnish, equip and improve the nurses quarters building, including improvements to the site, facilities and exhibits, at Fort Stanton historic site in Lincoln county;

8. seven hundred thousand dollars (\$700,000) to plan, design, construct, renovate, furnish, equip and make other improvements to facilities and exhibits, including phase 2 of heating, ventilation and air conditioning system replacement, at the New Mexico museum of space history in Alamogordo in Otero county;

9. thirty-five thousand dollars (\$35,000) to plan, design, construct, renovate, furnish, equip and improve the site, facilities and exhibits, including historic ruins preservation, at the Coronado historic site in Sandoval county;

10. fifteen thousand dollars (\$15,000) to plan, design, construct, renovate, furnish, equip and improve the site, facilities and exhibits, including historic ruins preservation, at the Jemez historic site in Sandoval county;

11. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including accessibility improvements, at the center for contemporary arts in Santa Fe in Santa Fe county;

12. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip renovations and repairs to an amphitheater, including shade structures,

walkways, bancos, ramadas, horno ovens and a gate, at the museum of Indian arts and culture in Santa Fe in Santa Fe county;

13. two hundred three thousand three hundred dollars (\$203,300) to plan, design and construct renovations and other improvements to the New Mexico museum of art in Santa Fe in Santa Fe county;

14. three hundred sixty-four thousand five hundred forty-nine dollars (\$364,549) to plan, design, construct, repair, renovate and make upgrades to the palace of the governors facility and site in Santa Fe in Santa Fe county;

15. fifty-six thousand dollars (\$56,000) to construct and make improvements to the roof, parapets and stucco at the Santa Fe children's museum in Santa Fe in Santa Fe county; and

16. three million seven hundred thousand dollars (\$3,700,000) to plan, design, construct, renovate, furnish and equip infrastructure for sites, facilities and exhibits, including fire suppression, security systems, climate control and site preservation, at museums, monuments, historic sites and cultural facilities statewide.

## **Chapter 80 Section 10 Laws 2018**

SECTION 10. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Cumbres and Toltec scenic railroad commission that the need exists for the issuance of the bonds, seven hundred fifty thousand dollars (\$750,000) is appropriated to the Cumbres and Toltec scenic railroad commission for track rehabilitation and related infrastructure improvements, including locomotive and boiler upgrades to comply with federal railroad administration standards, and for improvements to passenger cars for the Cumbres and Toltec scenic railroad operating between New Mexico and Colorado.

## **Chapter 80 Section 11 Laws 2018**

SECTION 11. DISTRICT ATTORNEY OF THE SECOND JUDICIAL DISTRICT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the district attorney of the second judicial district that the need exists for the issuance of the bonds, six hundred thousand dollars (\$600,000) is appropriated to the district attorney of the second judicial district to purchase and install security cameras, equipment and related technology for the office of the second judicial district attorney in Albuquerque in Bernalillo county.

## **Chapter 80 Section 12 Laws 2018**

SECTION 12. DISTRICT ATTORNEY OF THE FIFTH JUDICIAL DISTRICT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this

act, upon certification by the district attorney of the fifth judicial district that the need exists for the issuance of the bonds, twenty-five thousand dollars (\$25,000) is appropriated to the district attorney of the fifth judicial district to furnish the offices of the fifth judicial district attorney in the county judicial complex in Lovington in Lea county.

## **Chapter 80 Section 13 Laws 2018**

~~[SECTION 13. FIRST JUDICIAL DISTRICT COURT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the first judicial district court that the need exists for the issuance of the bonds, the following amounts are appropriated to the first judicial district court for the following purposes:~~

~~1. fifty-seven thousand five hundred dollars (\$57,500) to purchase and equip a vehicle and to purchase a speaker system for the jury room for the first judicial district court in Santa Fe county; and~~

~~2. sixty thousand dollars (\$60,000) to construct a security wall for the jury room and to purchase and install security cameras at the Steve Herrera judicial complex in the first judicial district in Santa Fe county.] *LINE-ITEM VETO*~~

## **Chapter 80 Section 14 Laws 2018**

SECTION 14. SECOND JUDICIAL DISTRICT COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the second judicial district court that the need exists for the issuance of the bonds, two hundred seventy-two thousand three hundred dollars (\$272,300) is appropriated to the second judicial district court to purchase and install high-density file storage units and to purchase related equipment for the second judicial district court in Albuquerque in Bernalillo county.

## **Chapter 80 Section 15 Laws 2018**

SECTION 15. ECONOMIC DEVELOPMENT DEPARTMENT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the economic development department that the need exists for the issuance of the bonds, five hundred thousand dollars (\$500,000) is appropriated to the economic development department to plan, design and construct infrastructure improvements in mainstreet districts statewide.

## **Chapter 80 Section 16 Laws 2018**

SECTION 16. PUBLIC EDUCATION DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the public education department that the need exists for the issuance of the bonds, the

following amounts are appropriated to the public education department for the following purposes:

1. sixty-five thousand dollars (\$65,000) to plan, design, construct, renovate, equip and furnish buildings and grounds, including purchase and installation of [~~playground and other~~] equipment, information technology, infrastructure and fixtures, at ACE Leadership high school in Albuquerque in Bernalillo county; *LINE-ITEM VETO*

2. one hundred fifteen thousand nine hundred fifty dollars (\$115,950) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of science and robotics equipment, [~~playground equipment,~~] information technology, infrastructure, fixtures and furniture, for the Albuquerque School of Excellence charter school in Bernalillo county; *LINE-ITEM VETO*

3. sixty-five thousand dollars (\$65,000) to plan, design and construct a facility for the Albuquerque sign language academy in Albuquerque in Bernalillo county;

4. forty-five thousand dollars (\$45,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including purchase and installation of equipment, fencing, information technology and related infrastructure, for Altura preparatory school in Albuquerque in Bernalillo county;

5. sixty thousand dollars (\$60,000) to plan, design, construct, renovate, furnish and equip buildings and grounds and to purchase and install related equipment, fencing, information technology, wiring and infrastructure in the Cesar Chavez community school in Albuquerque in Bernalillo county;

6. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, furnish and equip the buildings and grounds, including the [~~playground,~~] fencing, information technology, wiring and infrastructure, at Cien Aguas international school in Albuquerque in Bernalillo county; *LINE-ITEM VETO*

7. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including installation of a science lab and installation of related equipment, fencing, information technology, wiring and infrastructure, for the Gilbert L. Sena charter school in Albuquerque in Bernalillo county;

8. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, furnish and equip buildings, grounds and physical education changing rooms, including purchase and installation of related equipment, fencing, information technology, wiring, paving and infrastructure, for the international school at Mesa del Sol charter school in Bernalillo county;

9. thirty thousand dollars (\$30,000) to plan, design, purchase, construct, renovate and equip a film and television studio space, including classrooms and office

space, at the Media Arts collaborative charter school in Albuquerque in Bernalillo county;

10. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Mission Achievement and Success charter school in Albuquerque in Bernalillo county;

11. seventy thousand dollars (\$70,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including fencing, information technology, wiring, infrastructure and related equipment, at the Montessori elementary and middle school in Albuquerque in Bernalillo county;

12. fifty-one thousand dollars (\$51,000) to plan, design, construct, renovate, furnish and equip the buildings, grounds and a track, including purchase and installation of benches, fencing, information technology and related equipment, wiring and infrastructure, at Southwest Aeronautics, Mathematics and Science academy charter school in Bernalillo county;

13. thirty-three thousand six hundred dollars (\$33,600) to acquire land and to plan, design, construct, purchase, equip and install portable classrooms at the South Valley preparatory school in Albuquerque in Bernalillo county;

14. one hundred thirteen thousand dollars (\$113,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including purchase and installation of fencing, information technology and related equipment, furniture, infrastructure and wiring, at Southwest Secondary learning center in Albuquerque in Bernalillo county;

15. thirty-four thousand dollars (\$34,000) to purchase and install equipment, including information technology and related furniture, equipment and infrastructure, for arts programs and security at Tierra Adentro charter school in Albuquerque in Bernalillo county;

16. fifty-five thousand nine hundred fifty dollars (\$55,950) to plan, design, construct, renovate, furnish and equip buildings and grounds, including purchase and installation of a security system, an intercom system, a handicapped-accessible elevator, science equipment, fencing, information technology, wiring, infrastructure and related equipment, at the Twenty-First Century public academy in the Albuquerque public school district in Bernalillo county;

17. one hundred five thousand dollars (\$105,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at A. Montoya elementary school in the Albuquerque public school district in Bernalillo county;



18. eighteen thousand dollars (\$18,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;

19. ten thousand dollars (\$10,000) to plan, design, construct, improve, renovate, furnish and equip buildings, facilities and grounds, including the purchase and installation of related equipment, infrastructure, benches, tables, fixtures and furniture, at Alameda elementary school in the Albuquerque public school district in Bernalillo county;

20. seventy-two thousand dollars (\$72,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Alamosa elementary school in the Albuquerque public school district in Bernalillo county;

21. two hundred four thousand dollars (\$204,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Atrisco Heritage academy high school, West Mesa high school and Rio Grande high school in the Albuquerque public school district in Bernalillo county;

22. one hundred six thousand three hundred dollars (\$106,300) to purchase and equip vehicles for the district police department in the Albuquerque public school district in Bernalillo county;

23. seventy-two thousand three hundred dollars (\$72,300) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Albuquerque high school in the Albuquerque public school district in Bernalillo county;

24. twenty thousand dollars (\$20,000) to plan, design, construct, improve, renovate, furnish and equip buildings and facilities, including the purchase and installation of related equipment, infrastructure, fixtures and furniture, at Alvarado elementary school in the Albuquerque public school district in Bernalillo county;

25. twenty-four thousand dollars (\$24,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Apache elementary school in the Albuquerque public school district in Bernalillo county;

26. eighty-three thousand dollars (\$83,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Armijo elementary school in the Albuquerque public school district in Bernalillo county;

27. thirty thousand dollars (\$30,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Arroyo Del Oso elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

28. one hundred twenty-two thousand dollars (\$122,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Atrisco elementary school in the Albuquerque public school district in Bernalillo county;

29. fifteen thousand dollars (\$15,000) to plan, design, construct and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Atrisco Heritage academy high school in the Albuquerque public school district in Bernalillo county;

30. twenty-seven thousand three hundred dollars (\$27,300) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

31. thirty thousand dollars (\$30,000) to plan, design, construct and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Barcelona elementary school in the Albuquerque public school district in Bernalillo county;

32. fifteen thousand dollars (\$15,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Bel-Air elementary school in the Albuquerque public school district in Bernalillo county;

33. twenty-six thousand four hundred twenty-five dollars (\$26,425) to plan, design, construct, improve, renovate, furnish and equip buildings, facilities and grounds, including the purchase and installation of related equipment, infrastructure, benches, tables, fixtures and furniture, at the Career Enrichment center in the Albuquerque public school district in Bernalillo county;

34. twenty-seven thousand dollars (\$27,000) to plan, design, construct, renovate, improve and landscape the grounds, drainage and parking lots, including the purchase and installation of related equipment, fencing, lights [~~and signage~~], at Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;  
*LINE-ITEM VETO*

35. fifteen thousand dollars (\$15,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

36. thirty thousand dollars (\$30,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Chaparral elementary school in the Albuquerque public school district in Bernalillo county;

37. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Cochiti elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

38. forty thousand dollars (\$40,000) to plan, design, construct, renovate, improve and landscape the grounds, drainage and parking lot areas, including purchase and installation of related equipment, shade structures, furniture and fencing, at Coronado elementary school in the Albuquerque public school district in Bernalillo county;

39. twenty-one thousand five hundred dollars (\$21,500) to plan, design, construct, renovate and landscape the grounds, drainage and parking lot areas, including purchase and installation of related equipment, shade structures, furniture and fencing, at Corrales elementary school in the Albuquerque public school district in Bernalillo county;

40. ten thousand dollars (\$10,000) to plan, design, construct, renovate, equip and improve the fine arts building, facilities and performing arts centers, including the purchase and installation of [~~stage curtains~~], seating, carpet, sound and lighting systems, refinishing of stages, information technology and related equipment, furniture and infrastructure, at Del Norte high school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

41. ninety thousand dollars (\$90,000) to plan, design, construct, improve, furnish and landscape the grounds, fields and basketball and tennis court areas, including the purchase and installation of related equipment, fencing, court resurfacing, base pavement and striping, at Desert Ridge middle school in the Albuquerque public school district in Bernalillo county;

42. twenty thousand dollars (\$20,000) to plan, design, construct, improve, renovate, furnish, landscape and equip facilities, grounds and fields, including the purchase and installation of information technology and related equipment, furniture and

infrastructure, at Digital Arts and Technology academy charter school in the Albuquerque public school district in Bernalillo county;

43. one hundred thirty-four thousand dollars (\$134,000) to plan, design, construct, improve and landscape the grounds, fields [~~and playgrounds, including the purchase and installation of artificial turf~~], drainage, related equipment, furniture, shade structures and fencing, at Dolores Gonzales elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

44. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Double Eagle elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

45. fifteen thousand dollars (\$15,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Douglas MacArthur elementary school in the Albuquerque public school district in Bernalillo county;

46. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Duranes elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

47. fifteen thousand dollars (\$15,000) to plan, design, construct and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at the Early College academy in the Albuquerque public school district in Bernalillo county;

48. sixty thousand dollars (\$60,000) to purchase and install a cooling system in the classrooms at East Mountain high school in the Albuquerque public school district in Bernalillo county;

49. forty thousand dollars (\$40,000) to purchase and install doors that comply with the Americans with Disabilities Act of 1990 at East Mountain high school in the Albuquerque public school district in Bernalillo county;

50. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at East Mountain high school in the Albuquerque public school district in Bernalillo county;

~~[51. five thousand dollars (\$5,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase~~

~~and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Edward Gonzales elementary school in the Albuquerque public school district in Bernalillo county;] *LINE-ITEM VETO*~~

52. fifty-five thousand dollars (\$55,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Eisenhower middle school in the Albuquerque public school district in Bernalillo county;

53. fifty-five thousand dollars (\$55,000) to plan, design, purchase, construct, renovate, furnish, equip and install improvements to the buildings and grounds, including a heating, ventilation and air conditioning system, fencing, information technology, wiring and infrastructure, at El Camino Real academy charter school in the Albuquerque public school district in Bernalillo county;

54. seventy thousand dollars (\$70,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Eldorado high school in the Albuquerque public school district in Bernalillo county;

55. twenty-five thousand dollars (\$25,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures~~[, scoreboards]~~ and furniture, at Eldorado high school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

56. eighty-five thousand dollars (\$85,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

57. fifty-five thousand dollars (\$55,000) to plan, design, construct and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Ernie Pyle middle school in the Albuquerque public school district in Bernalillo county;

58. eighty-four thousand dollars (\$84,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Eugene Field elementary school in the Albuquerque public school district in Bernalillo county;

59. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures

and furniture, at Freedom high school in the Albuquerque public school district in Bernalillo county;

60. twenty thousand dollars (\$20,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Garfield middle school in the Albuquerque public school district in Bernalillo county;

61. ten thousand dollars (\$10,000) to plan, design, construct and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at George I. Sanchez collaborative community school in the Albuquerque public school district in Bernalillo county;

62. seventeen thousand dollars (\$17,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Georgia O'Keeffe elementary school in the Albuquerque public school district in Bernalillo county;

63. ninety thousand dollars (\$90,000) to plan, design, construct, improve, furnish and landscape the grounds, fields and basketball or tennis court areas, including purchase and installation of related equipment, fencing, court resurfacing, base pavement and striping, at Grant middle school in the Albuquerque public school district in Bernalillo county;

64. sixty thousand dollars (\$60,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Griegos elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

65. ten thousand dollars (\$10,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Harrison middle school in the Albuquerque public school district in Bernalillo county;

66. twenty-two thousand dollars (\$22,000) to plan, design, construct, improve, renovate, furnish and equip buildings and facilities, including the purchase and installation of related equipment, infrastructure, fixtures and furniture, at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

67. sixteen thousand four hundred twenty-five dollars (\$16,425) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Hayes middle school in the Albuquerque public school district in Bernalillo county;

68. ninety-six thousand four hundred twenty-five dollars (\$96,425) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Highland high school in the Albuquerque public school district in Bernalillo county;

69. fifteen thousand dollars (\$15,000) to plan, design, construct and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Hodgin elementary school in the Albuquerque public school district in Bernalillo county;

70. forty-four thousand dollars (\$44,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Hoover middle school in the Albuquerque public school district in Bernalillo county;

71. seventy thousand dollars (\$70,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Hubert H. Humphrey elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

72. fifteen thousand dollars (\$15,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Inez elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

73. twenty-two thousand dollars (\$22,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Jackson middle school in the Albuquerque public school district in Bernalillo county;

74. fifteen thousand dollars (\$15,000) to plan, design, construct, renovate, equip and improve the buildings and facilities, including the purchase and installation of fixtures, staging, choir risers, storage, shelving, lighting and sound systems, information technology and related equipment, furniture and infrastructure, at the Janet Kahn school of integrated arts in the Albuquerque public school district in Bernalillo county;

75. fifty-three thousand four hundred twenty-five dollars (\$53,425) to plan, design, construct, renovate, equip and improve the facilities, including purchase and installation of a sound system, lighting, related equipment, furniture, information technology and infrastructure, at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

76. thirty thousand dollars (\$30,000) to plan, design, construct, renovate and landscape the grounds, drainage and parking lot areas, including purchase and installation of related equipment, shade structures, furniture and fencing, at Jimmy Carter middle school in the Albuquerque public school district in Bernalillo county;

77. one hundred thirty thousand five hundred dollars (\$130,500) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at John Adams middle school in the Albuquerque public school district in Bernalillo county;

78. seventy-five thousand dollars (\$75,000) to plan, design, construct and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at John Baker elementary school in the Albuquerque public school district in Bernalillo county;

79. ninety-nine thousand dollars (\$99,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Kennedy middle school in the Albuquerque public school district in Bernalillo county;

80. forty-nine thousand four hundred twenty-five dollars (\$49,425) to plan, design, construct, improve, renovate, furnish and equip buildings and facilities, including the purchase and installation of related equipment, infrastructure, fixtures and furniture, at Kirtland elementary school in the Albuquerque public school district in Bernalillo county;

81. thirty thousand dollars (\$30,000) to plan, design, construct, renovate, furnish, equip and improve the collaborative workshop, outdoor classroom, buildings and grounds, including the purchase and installation of fencing, related equipment, information technology, wiring and infrastructure, for la academia de Esperanza in the Albuquerque public school district in Bernalillo county;

82. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, equip and improve the performing arts centers and facilities, including purchase and installation of [~~stage curtains,~~] seating, carpet, sound and lighting systems, refinishing of stages, information technology and related equipment, furniture and infrastructure, at La Cueva high school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

83. eighteen thousand dollars (\$18,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at La Luz elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*



84. fifty thousand dollars (\$50,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

85. seventy thousand dollars (\$70,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Lavaland elementary school in the Albuquerque public school district in Bernalillo county;

86. forty-three thousand dollars (\$43,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Los Padillas elementary school in the Albuquerque public school district in Bernalillo county;

87. twenty-five thousand dollars (\$25,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Los Ranchos elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

88. forty thousand dollars (\$40,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Madison middle school in the Albuquerque public school district in Bernalillo county;

89. one hundred eighteen thousand three hundred dollars (\$118,300) to plan, design, construct, renovate, equip and improve the fine arts buildings, facilities and performing arts centers, including purchase and installation of [~~stage curtains~~,] seating, carpet, sound and lighting systems, refinishing of stages, information technology and related equipment, furniture and infrastructure, at Manzano high school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

90. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, landscape, equip and furnish the area associated with the baseball field, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures[~~, scoreboards~~] and furniture, at Manzano high school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

91. sixty-three thousand two hundred dollars (\$63,200) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Manzano Mesa elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

92. fifty-one thousand four hundred twenty-five dollars (\$51,425) to plan, design, construct, renovate, improve and landscape the grounds, drainage and parking lot areas, including purchase and installation of related equipment, shade structures, furniture and fencing, at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county;

93. forty thousand dollars (\$40,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Matheson Park elementary school in the Albuquerque public school district in Bernalillo county;

94. forty-two thousand dollars (\$42,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at McCollum elementary school in the Albuquerque public school district in Bernalillo county;

95. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at McKinley middle school in the Albuquerque public school district in Bernalillo county;

96. eighteen thousand dollars (\$18,000) to purchase and install fixtures, furniture and equipment at McKinley middle school in the Albuquerque public school district in Bernalillo county;

97. forty-five thousand dollars (\$45,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

98. twenty-three thousand four hundred twenty-five dollars (\$23,425) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;

99. thirty-five thousand three hundred dollars (\$35,300) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Montezuma elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

100. ten thousand dollars (\$10,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase

and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Mountain View elementary school in the Albuquerque public school district in Bernalillo county;

101. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Navajo elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

102. thirty-six thousand four hundred twenty-five dollars (\$36,425) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at New Futures high school in the Albuquerque public school district in Bernalillo county;

103. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Nex+Gen academy in the Albuquerque public school district in Bernalillo county;

104. twenty thousand dollars (\$20,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at North Star elementary school in the Albuquerque public school district in Bernalillo county;

105. thirty-five thousand dollars (\$35,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including purchase and installation of fencing and related equipment, and to purchase and install information technology, including related furniture, equipment and infrastructure, at Nuestros Valores charter high school in the Albuquerque public school district in Bernalillo county;

106. forty thousand dollars (\$40,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Osuna elementary school in the Albuquerque public school district in Bernalillo county;

107. thirty thousand dollars (\$30,000) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Painted Sky elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

108. ten thousand dollars (\$10,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase

and installation of related equipment, furniture and landscaping, at Pajarito elementary school in the Albuquerque public school district in Bernalillo county;

109. seventy thousand dollars (\$70,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Petroglyph elementary school in the Albuquerque public school district in Bernalillo county;

110. ten thousand dollars (\$10,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Polk middle school in the Albuquerque public school district in Bernalillo county;

111. twenty thousand dollars (\$20,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Reginald Chavez elementary school in the Albuquerque public school district in Bernalillo county;

112. thirty thousand dollars (\$30,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

113. twenty-five thousand dollars (\$25,000) to design and construct a track and field shed, including shelving, and to purchase track and field equipment and carts for Rio Grande high school in the Albuquerque public school district in Bernalillo county;

114. fifty-five thousand dollars (\$55,000) to plan, design, construct, renovate, furnish and equip improvements to the facilities and grounds, including the photovoltaic, lighting and security systems, at Robert F. Kennedy charter high school in the Albuquerque public school district in Bernalillo county;

115. twenty thousand dollars (\$20,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

116. sixteen thousand five hundred seventy-nine dollars (\$16,579) to purchase and install equipment for a virtual learning laboratory at Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

117. fifty thousand dollars (\$50,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Roosevelt middle school in the Albuquerque public school district in Bernalillo county;

118. twenty-five thousand dollars (\$25,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Rudolfo Anaya elementary school in the Albuquerque public school district in Bernalillo county;

119. sixteen thousand four hundred twenty-five dollars (\$16,425) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Sandia Base elementary school in the Albuquerque public school district in Bernalillo county;

120. two hundred thirty-two thousand dollars (\$232,000) to plan, design, construct, renovate, equip and improve the performing arts centers and facilities, including purchase and installation of [~~stage curtains,~~] seating, carpet, sound and lighting systems, refinishing of stages, information technology and related equipment, furniture and infrastructure, at Sandia high school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

121. ten thousand dollars (\$10,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Sandia high school in the Albuquerque public school district in Bernalillo county;

122. one hundred eight thousand dollars (\$108,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

123. sixty thousand nine hundred fifty dollars (\$60,950) to plan, design, construct, improve, renovate, furnish and equip buildings, facilities and grounds, including the purchase and installation of related equipment, infrastructure, a sound system, benches, tables, fixtures and furniture, for South Valley academy charter school in the Albuquerque public school district in Bernalillo county;

124. thirty thousand dollars (\$30,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Susie R. Marmon elementary school in the Albuquerque public school district in Bernalillo county;

125. fifteen thousand dollars (\$15,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Taft middle school in the Albuquerque public school district in Bernalillo county;

126. eighty thousand dollars (\$80,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Taylor middle school in the Albuquerque public school district in Bernalillo county;

127. ninety-two thousand dollars (\$92,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Tierra Antigua elementary school in the Albuquerque public school district in Bernalillo county;

128. ninety-five thousand dollars (\$95,000) to plan, design, construct, improve, landscape and equip the grounds [and playgrounds], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Tomasita elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

129. ninety thousand dollars (\$90,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Tony Hillerman middle school in the Albuquerque public school district in Bernalillo county;

~~[130. five thousand dollars (\$5,000) to plan, design, construct, renovate, improve and landscape the grounds, drainage and parking lot areas, including purchase and installation of related equipment, shade structures, furniture and fencing, at Truman middle school in the Albuquerque public school district in Bernalillo county;] *LINE-ITEM VETO*~~

131. one hundred forty-five thousand dollars (\$145,000) to plan, design, construct, improve, landscape and equip the grounds [and playgrounds], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Valle Vista elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

132. fifty-five thousand dollars (\$55,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Valley high school in the Albuquerque public school district in Bernalillo county;

133. fifty-five thousand dollars (\$55,000) to plan, design, construct, renovate, equip and improve the fine arts buildings, facilities and performing arts centers, including purchase and installation of [stage curtains,] seating, carpet, sound and lighting systems, refinishing of stages, information technology and related equipment, furniture and infrastructure, at Valley high school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

134. ninety thousand dollars (\$90,000) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Van Buren middle school in the Albuquerque public school district in Bernalillo county;

135. fifty thousand dollars (\$50,000) to purchase and install fixtures, furniture and equipment at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

136. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Vision Quest alternative middle school in the Albuquerque public school district in Bernalillo county;

137. forty thousand dollars (\$40,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Volcano Vista high school in the Albuquerque public school district in Bernalillo county;

138. forty thousand dollars (\$40,000) to plan, design, construct, improve, renovate, furnish and equip the library, including the purchase of equipment, furniture, fixtures, bookshelves and information technology, at Washington middle school in the Albuquerque public school district in Bernalillo county;

139. eighty-two thousand five hundred dollars (\$82,500) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at West Mesa high school in the Albuquerque public school district in Bernalillo county;

140. forty-six thousand four hundred twenty-five dollars (\$46,425) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds~~], including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Wherry elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

141. forty-one thousand four hundred twenty-five dollars (\$41,425) to purchase and install security cameras, including related equipment, information technology, an access card security system, furniture, infrastructure and improvements, at Whittier elementary school in the Albuquerque public school district in Bernalillo county;

142. seventy-six thousand four hundred twenty-five dollars (\$76,425) to plan, design, construct, renovate, improve and landscape the grounds, drainage and

parking lot areas, including the purchase and installation of related equipment, shade structures, furniture, fencing [~~and signage,~~] at Wilson middle school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

143. thirty-six thousand four hundred twenty-five dollars (\$36,425) to plan, design, construct, renovate, improve and landscape the grounds, drainage and parking lot areas, including purchase and installation of related equipment, shade structures, furniture, fencing [~~and signage,~~] at Zia elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

144. thirty-six thousand four hundred twenty-five dollars (\$36,425) to plan, design, construct, improve, landscape and equip the grounds [~~and playgrounds,~~] including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Zuni elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

145. forty thousand dollars (\$40,000) to purchase and equip an activity bus for the Melrose public school district in Curry county;

146. sixty-five thousand dollars (\$65,000) to plan, design, construct and equip playgrounds and site improvements for the J. Paul Taylor academy in Las Cruces in Dona Ana county;

147. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase and install heating, ventilation and air conditioning systems, including site preparation, at Roselawn elementary school in the Artesia public school district in Eddy county;

148. eighty thousand dollars (\$80,000) to purchase and equip vehicles for the Cobre consolidated school district in Grant county;

149. forty thousand dollars (\$40,000) to plan, design, construct, install and equip a fiber ring and data center for the Silver consolidated school district in Grant county;

150. forty-eight thousand dollars (\$48,000) to plan, design, purchase and install a sound system in the Lovington municipal school district auditorium in Lea county;

151. forty-five thousand dollars (\$45,000) to plan, purchase and install security fencing at Jefferson elementary school, Sixth Grade academy, Yarbro elementary school, Gann cafeteria and Lovington high school in the Lovington municipal school district in Lea county;



152. one hundred thirty-eight thousand dollars (\$138,000) to design, purchase and install a security system for the Tatum municipal school district in Lea county;

153. one hundred twenty-five thousand dollars (\$125,000) to plan, design, purchase, replace, construct and install flooring, including subflooring, graphics, thresholds, coving, volleyball covers, electrical plates and removal and reinstallation of bleachers, at Corona high school in the Corona public school district in Lincoln county;

154. fifty thousand dollars (\$50,000) to plan, design and construct improvements to a track at the Mora independent school district in Mora county;

155. fifty thousand dollars (\$50,000) to purchase an activity bus for the Floyd municipal school district in Roosevelt county;

156. twenty-six thousand dollars (\$26,000) to purchase, equip, replace and install windows at Pecos middle school and Pecos high school in the Pecos independent school district in San Miguel county;

157. one hundred thousand dollars (\$100,000) to purchase and install a generator and fire pump controls, including construction and installation of related infrastructure, fixtures and connections, at the Valley elementary and middle school campus in the West Las Vegas public school district in San Miguel county;

158. twenty thousand dollars (\$20,000) to purchase and equip activity buses for the West Las Vegas public school district in San Miguel county;

159. forty-eight thousand five hundred seventy-five dollars (\$48,575) to purchase and install replacement heating, ventilation and air conditioning units in early childhood classrooms for the West Las Vegas public school district in San Miguel county;

~~[160. one hundred thousand dollars (\$100,000) to plan, design, purchase and install a facility management system for Rio Rancho Cyber academy in the Rio Rancho public school district in Sandoval county;] LINE-ITEM VETO~~

~~[161. twenty two thousand dollars (\$22,000) to plan, design, purchase and install sensor LED retrofit kits for parking lot lights at the district office building of the Rio Rancho public school district in Sandoval county;] LINE-ITEM VETO~~

162. two hundred seventy-eight thousand dollars (\$278,000) to plan, design, purchase and install security bollards at elementary schools in the Rio Rancho public school district in Sandoval county;

163. one hundred thousand dollars (\$100,000) to plan, design, purchase and install security bollards at middle schools in the Rio Rancho public school district in Sandoval county;

164. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, furnish and equip the building and grounds, including the purchase and installation of a security system, information technology and related equipment, fencing, wiring and infrastructure, for the Turquoise Trail elementary school in Santa Fe county;

165. twelve thousand dollars (\$12,000) to purchase and install a door barricade system in El Dorado community school in the Santa Fe public school district in Santa Fe county;

~~[166. one hundred sixty-two thousand three hundred dollars (\$162,300) to plan, design, construct and equip an addition to the dance barns facility in the Santa Fe public school district in Santa Fe county;] *LINE-ITEM VETO*~~

~~[167. twenty-five thousand dollars (\$25,000) to plan, design, purchase and install an emergency power backup system for the Santa Fe public school district in Santa Fe county;] *LINE-ITEM VETO*~~

168. fifty thousand dollars (\$50,000) to plan, design, construct and install plumbing repairs and improvements at Enos Garcia elementary school in the Taos municipal school district in Taos county]; and

~~169. sixty-eight thousand dollars (\$68,000) to purchase and equip a truck for the agriculture program at Mountainair high school in the Mountainair public school district in Torrance county]. *LINE-ITEM VETO*~~

## **Chapter 80 Section 17 Laws 2018**

SECTION 17. ENERGY, MINERALS AND NATURAL RESOURCES  
DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the energy, minerals and natural resources department that the need exists for the issuance of the bonds, the following amounts are appropriated to the energy, minerals and natural resources department for the following purposes:

1. one million nine hundred fifty-eight thousand eight hundred dollars (\$1,958,800) to plan, design and construct the remediation of a brine well at unit letter M (SW/4 of SW/4) in section seventeen, township twenty-two, range twenty-seven east, New Mexico principal meridian, in Carlsbad in Eddy county;

2. five hundred thousand dollars (\$500,000) to purchase and equip wildland fire engines and firefighting crew carriers statewide; and

3. one million dollars (\$1,000,000) to plan, design and construct watershed restoration and community wildfire protection improvements, including forest thinning, statewide.

## **Chapter 80 Section 18 Laws 2018**

SECTION 18. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECT--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 1 of this act, upon certification by the state parks division of the energy, minerals and natural resources department that the need exists for the issuance of the bonds, three hundred thousand dollars (\$300,000) is appropriated to the state parks division of the energy, minerals and natural resources department to plan, design and construct upgrades and improvements to infrastructure, including water and wastewater systems, in state parks statewide.

## **Chapter 80 Section 19 Laws 2018**

SECTION 19. OFFICE OF THE STATE ENGINEER PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the office of the state engineer that the need exists for the issuance of the bonds, five hundred seventy-five thousand six hundred dollars (\$575,600) is appropriated to the office of the state engineer to plan, design and construct a dam on Spring canyon west of Hatch in Dona Ana county.

## **Chapter 80 Section 20 Laws 2018**

SECTION 20. DEPARTMENT OF ENVIRONMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of environment that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of environment for the following purposes:

1. thirty-seven thousand five hundred dollars (\$37,500) to plan and design phase 1 improvements to the Carnuel wastewater system for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;

2. fifty thousand dollars (\$50,000) to plan, design and construct a water well in Tijeras in Bernalillo county;

3. seventy-five thousand dollars (\$75,000) to design and construct water system improvements for the Quemado mutual water and sewer works association in Quemado in Catron county;

~~4. thirty-five thousand dollars (\$35,000) to plan, design, construct and repair water storage tanks in Angel Fire in Colfax county;]~~ *LINE-ITEM VETO*

~~[5. twenty-five thousand dollars (\$25,000) to plan, design and construct water distribution system improvements in Maxwell in Colfax county;] LINE-ITEM VETO~~

6. forty-five thousand dollars (\$45,000) to purchase and equip a sanitation and compactor truck for Melrose in Curry county;

7. one hundred thousand dollars (\$100,000) to purchase water rights for the Alto de las Flores mutual domestic water consumers association in Dona Ana county;

8. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a sewer collection and lift station and a force main system in the Desert Aire area for the Anthony water and sanitation district in Dona Ana county;

9. two hundred thousand dollars (\$200,000) to plan, design and construct improvements and upgrades to the existing wastewater collection system in the south central region in Dona Ana county;

10. one hundred fifty thousand dollars (\$150,000) to design and construct a water pipeline extension along Stern drive from Mesquite drive to the north, including hydrants and appurtenances, for the lower Rio Grande public water works authority in Dona Ana county;

11. ninety-five thousand dollars (\$95,000) to construct a sewer lift station in Anthony for the Anthony water and sanitation district in Dona Ana county;

12. fifty thousand dollars (\$50,000) to construct a water pipeline extension, including connections, hydrants, valves and appurtenances, along Jacquez road in Berino in Dona Ana county;

13. forty thousand dollars (\$40,000) to plan, design, construct, purchase and install equipment, including a storage room, for La Union mutual domestic sewer and water association in Dona Ana county;

~~[14. twenty-four thousand eight hundred dollars (\$24,800) to plan, design and construct flood control facilities in Las Cruces in Dona Ana county;] LINE-ITEM VETO~~

15. three hundred twenty-five thousand eight hundred dollars (\$325,800) to plan, design and construct improvements to wastewater lift stations and manholes for the Camino Real regional utility authority in Dona Ana county;

16. one hundred thousand dollars (\$100,000) to plan, design, equip and construct a municipal water chlorination system in Artesia in Eddy county;

~~[17. twenty thousand dollars (\$20,000) to purchase and equip a backhoe for the southwest solid waste authority in Silver City in Grant county;~~

~~18. ten thousand dollars (\$10,000) to plan, design and construct water system improvements for the Sangre de Cristo mutual domestic water consumers association in Anton Chico in Guadalupe county;] *LINE-ITEM VETO*~~

~~[19. twenty five thousand dollars (\$25,000) to plan, design, construct and equip water system improvements in Mosquero in Harding county;] *LINE-ITEM VETO*~~

20. two hundred fifty thousand dollars (\$250,000) to construct aerobic digestion basins and purchase, construct and install pumping equipment at the wastewater reclamation facility in Hobbs in Lea county;

21. two hundred thousand dollars (\$200,000) to construct an aquifer recharge and recovery system for the wastewater reclamation facility in Hobbs in Lea county;

22. one hundred ten thousand dollars (\$110,000) to repair and make improvements to the main water storage tank in Tatum in Lea county;

~~[23. seventy five thousand dollars (\$75,000) to plan, design, purchase, construct, repair and replace water lines in Capitan in Lincoln county;~~

~~24. ten thousand dollars (\$10,000) to plan, design, purchase and construct repairs and replacements, including pumps, pipe and casings, to Red Cloud well number eight in Corona in Lincoln county;] *LINE-ITEM VETO*~~

25. twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements, including a transmission line, for Corona in Lincoln county;

26. one hundred fifty thousand three hundred dollars (\$150,300) to plan, design, construct and equip improvements to the Alto water treatment plant in Ruidoso in Lincoln county;

27. seventy-five thousand dollars (\$75,000) to acquire land for and to plan, design and construct water system improvements for a regional water system that includes White Cliffs mutual domestic water users association, Gamarco water and sanitation district and Ya-Ta-Hey water and sanitation district in McKinley county;

~~[28. thirty five thousand dollars (\$35,000) to plan, design and construct water system improvements for the Buena Vista mutual domestic water consumer's and sewage works association in Mora county;] *LINE-ITEM VETO*~~

29. thirty-five thousand dollars (\$35,000) to plan, design and construct water system improvements for the Agua Pura mutual domestic water consumers and mutual sewage works association in Mora county;

30. nineteen thousand six hundred dollars (\$19,600) to purchase and equip trucks and a trailer for the northwest New Mexico regional solid waste authority in McKinley and Cibola counties;

31. one hundred thirty-two thousand dollars (\$132,000) to plan, design, construct and equip a water supply well and building, including a pump, a chlorine injection system and piping and supply line connections, for La Luz mutual domestic water consumers' association and mutual sewage works association in Otero county;

32. seventy-five thousand dollars (\$75,000) to plan, design, purchase, construct and install improvements to the wastewater system in Tularosa in Otero county;

33. fifty thousand dollars (\$50,000) to plan, design, construct, equip and install improvements to the Abiquiu mutual domestic water consumers association and mutual sewage works association water system in Rio Arriba county;

~~[34. forty-six thousand seven hundred fifty dollars (\$46,750) to design and construct a water well, pump house and disinfection system for the Alcalde mutual domestic water consumers' and mutual sewage works association in Rio Arriba county;]~~  
*LINE-ITEM VETO*

35. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements for the Canjilon mutual domestic water consumers' and mutual sewage works association in Rio Arriba county;

~~[36. twenty thousand dollars (\$20,000) to plan, design and construct water system improvements for the Cordova mutual domestic water consumers association in Rio Arriba county;]~~ *LINE-ITEM VETO*

37. fifty thousand dollars (\$50,000) to plan, design and construct a wastewater system for El Rito regional water and wastewater association in El Rito in Rio Arriba county;

~~[38. forty-six thousand seven hundred fifty dollars (\$46,750) to plan, design and construct water system improvements for the Chamita mutual domestic water consumers and sewage works association in Rio Arriba county;]~~ *LINE-ITEM VETO*

39. one hundred thousand dollars (\$100,000) to plan, design and construct phase 2 well field improvements for Portales in Roosevelt county;

40. five hundred thousand dollars (\$500,000) to plan, design, construct and replace a water storage tank in Bloomfield in San Juan county;

~~[41. fifty thousand dollars (\$50,000) to acquire land for and plan, design and construct a sewer system connection to the west Pecos wastewater treatment plant for the east Pecos mutual domestic water consumers association in San Miguel county;]~~  
*LINE-ITEM VETO*

42. forty-five thousand dollars (\$45,000) to plan, design and construct water system improvements for El Valle water alliance in San Miguel county;

43. forty-five thousand dollars (\$45,000) to plan, design and construct water system improvements for El Creston mutual domestic water consumers association in Las Vegas in San Miguel county;

~~[44. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the water and wastewater systems in Pecos in San Miguel county;]~~  
*LINE-ITEM VETO*

45. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Rowe mutual domestic water consumers association in Rowe in San Miguel county;

46. forty-five thousand dollars (\$45,000) to plan, design and construct water system improvements for the Chapelle mutual domestic consumers association in Serafina in San Miguel county;

~~[47. one hundred thousand dollars (\$100,000) to plan, design, construct and install arsenic removal equipment in the Algodones mutual domestic water consumers and mutual sewage works association facility in Algodones in Sandoval county;]~~ *LINE-ITEM VETO*

48. five hundred four thousand dollars (\$504,000) to plan, design, construct and relocate water and sewer lines along United States highway 550 and New Mexico highway 528 in Bernalillo in Sandoval county;

49. eighty-five thousand dollars (\$85,000) to plan, design and construct a well, tank, utilities and water distribution system for phase 1 of the Angel Hill fire protection water system in Corrales in Sandoval county;

50. eighty thousand dollars (\$80,000) to plan, design, construct and equip wastewater facilities in congested areas and to expand the wastewater system in Corrales in Sandoval county;

51. thirty thousand dollars (\$30,000) to plan, design and construct improvements to the water system in Cuba in Sandoval county;

52. seventy thousand dollars (\$70,000) to design and construct water infrastructure improvements for the Jemez Valley public school district in Sandoval county;

53. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Pena Blanca water and sanitation district in Sandoval county;

54. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Regina mutual domestic water consumers association in Sandoval county;

55. four hundred twenty thousand dollars (\$420,000) to plan, design and construct an off-channel flood control detention facility, a diversion weir and bank stabilization on the Lomas Negras arroyo for the southern Sandoval county arroyo flood control authority in Sandoval county;

56. fifty thousand dollars (\$50,000) to plan, design, construct and improve utility corridors, including lateral lines and extension of water and sewer lines, for the Agua Fria community water system association in Agua Fria village in Santa Fe county;

57. two hundred thousand dollars (\$200,000) to plan, design and construct water distribution system improvements and water line extensions for the Agua Fria community water system association in Agua Fria village in Santa Fe county;

58. three hundred fifteen thousand dollars (\$315,000) to plan and design water supply system improvements for the Eldorado area water and sanitation district in Santa Fe county;

59. twenty thousand dollars (\$20,000) to plan, design, purchase, construct and install water system improvements for La Bajada community ditch and mutual domestic water association in Santa Fe county;

60. three hundred thousand dollars (\$300,000) to plan, design, construct and equip wastewater system improvements in Edgewood in Santa Fe county;

61. one hundred thousand dollars (\$100,000) to plan, design and construct phase 1 improvements to the wastewater treatment plant in Edgewood in Santa Fe county;

62. thirty-nine thousand dollars (\$39,000) to inspect, repair and improve a water tank, including sediment removal, for La Cienega mutual domestic water consumers and mutual sewage works in La Cienega in Santa Fe county;



~~[63. eighty-eight thousand dollars (\$88,000) to plan, design and construct water system improvements, including larger water lines and hydrants, in Elephant Butte in Sierra county;~~

~~64. sixteen thousand dollars (\$16,000) to plan, design and construct collection lines and to improve the wastewater system in Elephant Butte in Sierra county;] *LINE-ITEM VETO*~~

65. thirty-seven thousand seven hundred dollars (\$37,700) to plan, design and construct water system improvements for the Trampas mutual domestic water consumers and mutual sewage works association in Taos county;

66. fifty thousand dollars (\$50,000) to plan, design and construct the Tafoya sewer main lateral, including installing sewer mains, manholes and service lines, for El Valle de los Ranchos water and sanitation district in the Talpa area in Taos county;

67. fifty thousand dollars (\$50,000) to plan, design, construct and replace a water line for the Llano Quemado mutual domestic water consumers association in Taos county;

~~[68. twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements for the lower Arroyo Hondo mutual domestic water consumers and mutual sewage works association in Taos county;~~

~~69. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the water system in El Prado water and sanitation district in Taos county;] *LINE-ITEM VETO*~~

70. twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements for the Ojo Caliente mutual domestic water consumers association in Taos county;

71. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip, purchase and install fire hydrants in Red River in Taos county;

72. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, improve and install meters for the water system in Red River in Taos county;

~~[73. fifty thousand dollars (\$50,000) to plan, design and construct a wastewater treatment plant in Taos Ski Valley in Taos county;] *LINE-ITEM VETO*~~

74. twenty thousand dollars (\$20,000) to plan, design and construct improvements to the well in Estancia in Torrance county;

~~[75. fifteen thousand dollars (\$15,000) to plan, design, construct and replace a sewer line in Mountainair in Torrance county;] LINE-ITEM VETO~~

76. fifteen thousand dollars (\$15,000) to construct improvements to the roof and electrical system of the well house in Mountainair in Torrance county;

77. thirty-five thousand dollars (\$35,000) to plan, design and construct wastewater system improvements in Willard in Torrance county; and

78. fifty thousand dollars (\$50,000) to plan, design and construct improvements to municipal well nine in Clayton in Union county.

## **Chapter 80 Section 21 Laws 2018**

SECTION 21. STATE FAIR COMMISSION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the state fair commission that the need exists for the issuance of the bonds, the following amounts are appropriated to the state fair commission for the following purposes:

~~[1. eighty thousand dollars (\$80,000) to purchase and install equipment and furnishings at the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county; and] LINE-ITEM VETO~~

2. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, furnish and equip infrastructure and infrastructure improvements, including electrical and power upgrades, roofs, roads, pathways and parking lots, at the New Mexico state fairgrounds in Albuquerque in Bernalillo county.

## **Chapter 80 Section 22 Laws 2018**

SECTION 22. INDIAN AFFAIRS DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Indian affairs department that the need exists for the issuance of the bonds, the following amounts are appropriated to the Indian affairs department for the following purposes:

1. seventy-five thousand thirty-eight dollars (\$75,038) to repair, renovate and equip the courtyard at the Indian pueblo cultural center in Albuquerque in Bernalillo county;

2. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, furnish and equip baseball fields in the Pueblo of Acoma in Cibola county;

~~[3. twenty thousand dollars (\$20,000) to plan, design, construct and improve the Acoma community park, including a synthetic playing surface, in the Pueblo of Acoma in Cibola county;~~

~~4. five thousand dollars (\$5,000) to plan, design, purchase, replace and improve information technology and telecommunications systems in the Pueblo of Acoma in Cibola county;] *LINE-ITEM VETO*~~

5. one hundred seventy thousand dollars (\$170,000) for safety enhancements and site improvements for the bike and pedestrian trails system at the Pueblo of Laguna in Cibola county;

6. fifty thousand dollars (\$50,000) to plan, design, purchase, construct, equip and install a solid waste transfer station, including a trash compactor dumpster, a trash bin and an operator building, in the Ramah chapter of the Navajo Nation in Cibola county;

7. thirty-five thousand dollars (\$35,000) to purchase and install a compactor for the Baahaali Chichiltah regional waste collection and recycling center facility in the Baahaali chapter of the Navajo Nation in McKinley county;

~~[8. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Baahaali chapter of the Navajo Nation in McKinley county;~~

~~9. fifty thousand dollars (\$50,000) to purchase a backhoe for the Baca/Prewitt chapter of the Navajo Nation in McKinley county;] *LINE-ITEM VETO*~~

10. fifty thousand dollars (\$50,000) to plan, design, construct and equip the chapter house sewer waste system and utility extension in the Chichiltah chapter of the Navajo Nation in McKinley county;

11. eighty-three thousand dollars (\$83,000) to plan, design and construct a water system in the Vanderwagen area of the Chichiltah chapter of the Navajo Nation in McKinley county;

12. seventy-eight thousand eight hundred dollars (\$78,800) to plan, design and construct a community cemetery, including water lines and power lines, in the Coyote Canyon chapter of the Navajo Nation in McKinley county;

~~[13. fifty thousand dollars (\$50,000) to purchase, install and construct a head start building in the Iyanbite chapter of the Navajo Nation in McKinley county;~~

~~14. fifty thousand dollars (\$50,000) to plan and design renovations to the head start administration facility for use as a chapter administration facility in the Manuelito chapter of the Navajo Nation in McKinley county;~~

~~15. fifty thousand dollars (\$50,000) to purchase and equip a motor grader for the Manuelito chapter of the Navajo Nation in McKinley county;] *LINE-ITEM VETO*~~

16. thirty thousand dollars (\$30,000) to construct bathroom additions in the Mariano Lake chapter of the Navajo Nation in McKinley county;

17. fifty thousand dollars (\$50,000) to plan, design and construct accessibility improvements at the chapter house of the Nahodishgish chapter of the Navajo Nation in McKinley county;

18. one hundred ten thousand dollars (\$110,000) to plan and design parking lots, including curbs and lighting, for the chapter complex at the Smith Lake chapter in the Navajo Nation in McKinley county;

19. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a warehouse for the Tohatchi chapter of the Navajo Nation in McKinley county;

~~[20. fifty thousand dollars (\$50,000) to plan, design and construct power lines and house wiring in the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;~~

~~21. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish a warehouse barn in the Twin Lakes chapter of the Navajo Nation in McKinley county;] *LINE-ITEM VETO*~~

22. ninety-six thousand dollars (\$96,000) to plan, design and construct bathroom additions in the Whitehorse Lake chapter and the Rincon Marquez and Sand Springs communities of the Navajo Nation in McKinley county;

23. one hundred fifty thousand eight hundred dollars (\$150,800) to plan, design, construct, equip and furnish the Zuni veterans' memorial park phase 2, including a visitor center, at the Pueblo of Zuni in McKinley county;

24. one hundred fifty-eight thousand dollars (\$158,000) to design and construct phase 1 improvements to sewer lines in the Pueblo of Isleta in Bernalillo and Valencia counties;

25. fifty thousand dollars (\$50,000) to plan, design and construct a rural addressing system, including house numbers and road signs, in the Ojo Encino chapter of the Navajo Nation in Sandoval and McKinley counties;

26. fifty thousand dollars (\$50,000) to plan, design and construct a multipurpose building and administrative office facility in the Rock Springs chapter of the Navajo Nation in McKinley county;

27. one hundred seventy-five thousand dollars (\$175,000) to purchase and equip activity buses for the Mescalero Apache schools of the Mescalero Apache Tribe in Otero county;

28. ninety-six thousand seven hundred twenty-one dollars (\$96,721) to purchase and equip heart monitors for the Jicarilla emergency medical services for the Jicarilla Apache Nation in Rio Arriba county;

29. forty-four thousand dollars (\$44,000) to purchase, construct and install a community garden storage unit and office for the Jicarilla Apache Nation in Dulce in Rio Arriba county;

30. one hundred fifty thousand dollars (\$150,000) to design and construct storm and surface water control systems in Ohkay Owingeh in Rio Arriba county;

31. eighty-seven thousand five hundred dollars (\$87,500) to purchase and equip an excavator for irrigation systems on the Navajo Nation in San Juan county;

~~32. eighty-seven thousand five hundred dollars (\$87,500) to design and construct irrigation improvements, including purchase and installation of a pipeline, to Navajo Nation irrigation systems in San Juan county;~~ *LINE-ITEM VETO*

33. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install bathroom additions in the Tooh Haltsooi chapter of the Navajo Nation in San Juan county;

34. fifty-five thousand dollars (\$55,000) to plan, design and construct a fence at the community cemetery in the vicinity of the Beclabito chapter of the Navajo Nation in San Juan county;

35. ninety-five thousand dollars (\$95,000) to plan, design and construct power line extensions in the Lake Valley chapter of the Navajo Nation in San Juan county;

36. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and renovate the roof on the multipurpose building in the Nenahnezad chapter of the Navajo Nation in San Juan county;

37. seventy-five thousand dollars (\$75,000) to plan, design and construct a heliport in the Newcomb chapter of the Navajo Nation in San Juan county;

38. seventy thousand dollars (\$70,000) to plan, design and construct water lines and bathroom additions in the Red Valley chapter of the Navajo Nation in San Juan county;

39. seventy-five thousand dollars (\$75,000) to plan, design and construct a power line extension in the Two Grey Hills chapter of the Navajo Nation in San Juan county;

40. fifty thousand dollars (\$50,000) to construct, renovate and equip the chapter house building in the White Rock chapter of the Navajo Nation in San Juan county;

41. ninety thousand dollars (\$90,000) to purchase and install heavy equipment for Kewa Pueblo in Sandoval county;

~~[42. fifty thousand dollars (\$50,000) to plan, design, renovate, equip and furnish a multi-use facility at the Pueblo of Cochiti in Sandoval county;] LINE-ITEM VETO~~

43. forty thousand five hundred sixty-two dollars (\$40,562) to design and construct water system improvements in the Lybrook community in the Counselor chapter of the Navajo Nation in Sandoval county;

44. one hundred sixty-five thousand dollars (\$165,000) to plan, design and construct power and water lines in the Pueblo of Jemez in Sandoval county;

45. one hundred forty-eight thousand five hundred dollars (\$148,500) to plan, design, purchase, install and construct a heating, ventilation and air conditioning system in the education and recreation center at the Pueblo of Sandia in Sandoval county;

46. one hundred twenty thousand dollars (\$120,000) to demolish and to plan, design, construct, equip and replace water storage tanks and appurtenances at the Pueblo of Santa Ana in Sandoval county;

47. fifty thousand dollars (\$50,000) to plan and design an administrative complex in the Torreon/Star Lake chapter of the Navajo Nation in Sandoval county;

48. eighty thousand dollars (\$80,000) to plan and design a wastewater lagoon at the Pueblo of Zia in Sandoval county;

~~[49. two hundred thousand dollars (\$200,000) to plan, design, purchase, construct and improve the water and wastewater systems, including a water storage tank and sewer lines, in the Pueblo of Nambe in Santa Fe county;] LINE-ITEM VETO~~

50. one hundred thousand dollars (\$100,000) to furnish and equip an early childhood learning facility at the Pueblo of Nambe in Santa Fe county;

~~[51. fifty thousand dollars (\$50,000) to plan, design, equip, renovate and repair a pool at the Pojoaque wellness center in the Pueblo of Pojoaque in Santa Fe county;] LINE-ITEM VETO~~

52. fifty thousand dollars (\$50,000) to design and construct phase 4 of a wastewater collection system and treatment plant in the Pueblo of San Ildefonso in Santa Fe county;

53. thirty-six thousand eight hundred forty-three dollars (\$36,843) to plan, design and construct an access lane and other road improvements, including ingress and egress, curbs and gutters and storm drainage, at the Santa Fe Indian school in Santa Fe in Santa Fe county;

54. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to the intergenerational center in the Pueblo of Tesuque in Santa Fe county[;];

~~55. one hundred thousand dollars (\$100,000) to plan, design, construct and equip water wells, including filtration systems, in the Alamo chapter of the Navajo Nation in Socorro county;~~

~~56. twenty five thousand dollars (\$25,000) to purchase and equip road maintenance vehicles for the Pueblo of Taos in Taos county; and~~

~~57. twenty thousand dollars (\$20,000) to design, construct and renovate the veterans association office complex, including infrastructure and site improvements, in the Pueblo of Isleta in Valencia county].~~ *LINE-ITEM VETO*

## **Chapter 80 Section 23 Laws 2018**

SECTION 23. INDIAN WATER RIGHTS SETTLEMENT FUND--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the office of the state engineer that the need exists for the issuance of the bonds, six million one hundred seventy-five thousand dollars (\$6,175,000) is appropriated to the Indian water rights settlement fund. Notwithstanding the requirement for a joint resolution of the legislature in Subsection A of Section 72-1-11 NMSA 1978, if a corresponding commitment has been made for the federal portion of the settlement in the Aamodt case, the money may be expended by the interstate stream commission in fiscal year 2019 and subsequent fiscal years to implement the state's portion of the settlement, and any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

## **Chapter 80 Section 24 Laws 2018**

SECTION 24. DEPARTMENT OF INFORMATION TECHNOLOGY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of information technology that the need exists for the issuance of the bonds, ten million dollars (\$10,000,000) is appropriated to the department of information technology to plan, design, purchase, install and implement infrastructure to stabilize and modernize public safety radio communications statewide.

## Chapter 80 Section 25 Laws 2018

SECTION 25. INTERSTATE STREAM COMMISSION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the interstate stream commission that the need exists for the issuance of the bonds, the following amounts are appropriated to the interstate stream commission for the following purposes:

1. ten thousand dollars (\$10,000) to plan, design and construct infrastructure improvements to acequia de Vado de Juan Paiz in Guadalupe county;
2. ten thousand dollars (\$10,000) to design, construct and install pipe and gabion baskets for the Santa Rosa swamp ditch in Guadalupe county;
3. thirty thousand dollars (\$30,000) to construct, purchase and install a pipe in the east Puerto de Luna acequia in Guadalupe county;
4. ten thousand dollars (\$10,000) to plan, design, construct and install improvements for acequia de Tecolotito in Guadalupe county;
5. ten thousand dollars (\$10,000) to plan, design and construct improvements, including bank stabilization and a dam, to the acequia del rito de Diego in Mora county;
6. thirteen thousand eight hundred ten dollars (\$13,810) to design and construct improvements to the acequia del Distrito in Chimayo in Santa Fe and Rio Arriba counties;
7. ten thousand dollars (\$10,000) to plan, design, construct, purchase and install improvements, including culverts, to the acequia de Chamita in Rio Arriba county;
8. forty-five thousand dollars (\$45,000) to plan and design phase 1 improvements, including piping, to the acequia de los Chavez in Petaca in Rio Arriba county;
9. twenty thousand dollars (\$20,000) to plan, design and construct improvements, including water control structures, for the acequia de los Salazares in Rio Arriba county;
- ~~10. ten thousand dollars (\$10,000) to plan, design, construct and install improvements for acequia de los Ancones in Rio Arriba county;~~ *LINE-ITEM VETO*
11. ten thousand six hundred dollars (\$10,600) to plan, design, construct, purchase and install improvements, including piping, to the acequia de la Otra Vanda in Cordova in Rio Arriba county;



12. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase and install improvements, including culverts, bank stabilization, piping, lining and realignment, to the acequia de la Plaza de Dixon in Rio Arriba county;

13. forty thousand dollars (\$40,000) for site preparation and to design, construct and install piping for the acequia del Llano in Dixon in Rio Arriba county;

14. forty thousand dollars (\$40,000) to plan, design and construct improvements, including installing ditch linings and piping, to the acequia de Ojo Sarco in Rio Arriba county;

15. twenty thousand dollars (\$20,000) to plan, design and construct improvements, including bank stabilization, to the acequia de los Seguras in San Miguel county;

~~16. five thousand dollars (\$5,000) to plan, design and construct improvements, including culverts, collars and connectors, to the acequia de los Vecinos de los Vallecitos west in San Miguel county;~~

~~17. five thousand dollars (\$5,000) to plan, design, construct and install improvements to the acequia rio de la Vaca in San Miguel county;] *LINE-ITEM VETO*~~

18. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the acequia Madre de Las Vegas in San Miguel county;

19. one hundred thousand dollars (\$100,000) to construct a water line for the Archibeque ditch in Sandoval county;

20. fifteen thousand dollars (\$15,000) to plan, design and construct improvements to the Jemez river basin acequia in Sandoval county;

21. twenty thousand dollars (\$20,000) to plan, design and construct improvements to the Nacimiento community ditch in Cuba in Sandoval county;

22. ten thousand dollars (\$10,000) to construct a head gate and acequia improvements for the acequia de la Muralla in Santa Fe county;

23. thirty-two thousand two hundred twenty dollars (\$32,220) to construct, purchase and install improvements, including plates and pipe, to the acequia de las Joyas in Santa Fe county;

24. fifty thousand dollars (\$50,000) to construct and install improvements to the acequia del Potrero in Santa Fe county;

~~[25. eight thousand one hundred dollars (\$8,100) to plan, design, purchase, construct and install improvements, including valves, for La Mesilla community ditch in Santa Fe county;] *LINE-ITEM VETO*~~

26. thirteen thousand dollars (\$13,000) to plan, construct and install improvements to the Alto ditch for the Rio en Medio ditch association in Santa Fe county;

~~[27. thirty-five thousand dollars (\$35,000) to design and construct improvements to the acequia del Distrito in El Rancho in Santa Fe county;] *LINE-ITEM VETO*~~

28. ninety-five thousand dollars (\$95,000) to acquire land and to plan, design, purchase, construct and equip improvements for El Guicu ditch in Santa Fe county;

29. one hundred forty-eight thousand seventy dollars (\$148,070) to plan, design and construct improvements, including earthwork, concrete construction and site restoration, to the acequia de los Ranchos in Chimayo in Santa Fe county;

30. twelve thousand dollars (\$12,000) to plan, design and construct improvements to La Cienega reservoir for the acequia de la Cienega in Santa Fe county;

31. thirty-five thousand dollars (\$35,000) to plan, design, construct and install improvements, including concrete headgates, piping and stabilizing banks and borders, to the acequia del Rincon in Santa Fe county;

32. ten thousand dollars (\$10,000) to plan, design and construct repairs, including corrugated steel culverts, to Las Palomas community ditch in Sierra county; and

33. ten thousand dollars (\$10,000) to plan, design and construct the rio Chiquito diversion overflow and control system for the acequia del Monte and the acequia Madre in Taos county.

## **Chapter 80 Section 26 Laws 2018**

SECTION 26. LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 1 of this act, upon certification by the local government division of the department of finance and administration that the need exists for the issuance of the bonds, the following amounts are appropriated to the local government division of the department of finance and administration for the following purposes:

1. fifty thousand dollars (\$50,000) to purchase field maintenance equipment for Alameda little league fields in Albuquerque in Bernalillo county;

2. seventy-five thousand dollars (\$75,000) to purchase land and to plan, design and construct a park and outdoor facilities along the bluff area of the drain from west Central avenue to Bridge street, both within and outside the city limits of Albuquerque in Bernalillo county;

~~[3. eight thousand dollars (\$8,000) to plan, design, construct and equip phase 1 site work and utility works for the Carlito Springs open space in Bernalillo county;] LINE-ITEM VETO~~

4. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish and equip the buildings and grounds, including the purchase of information technology and related infrastructure, equipment and furniture, for a children and family support services facility in Albuquerque in Bernalillo county;

~~[5. seventy three thousand three hundred dollars (\$73,300) to purchase and install communications and other equipment, information technology and furniture and to purchase and equip vehicles, including a food transport truck and a box truck, for facilities and programs of a community development and assistance agency in Bernalillo county;] LINE-ITEM VETO~~

6. twenty thousand dollars (\$20,000) to purchase land for a community center to serve homeless and low-income women in Bernalillo county;

7. twenty-seven thousand three hundred dollars (\$27,300) to plan, design, construct, equip and furnish a multi-use indoor sports facility in Bernalillo county;

8. sixty-two thousand dollars (\$62,000) to purchase and equip a wheelchair-accessible bus for the South Valley multipurpose senior center in Bernalillo county;

9. two hundred fifty-five thousand dollars (\$255,000) to purchase and equip an armored multi-terrain loader and heavy duty truck and trailer for the sheriff's department in Bernalillo county;

10. four hundred fifty-two thousand four hundred dollars (\$452,400) to purchase and equip vehicles for the sheriff's office in Bernalillo county;

~~[11. three hundred eighty-three thousand dollars (\$383,000) to plan, design, construct, equip and furnish bathrooms and locker rooms, including demolition, and to plan, design and construct improvements to the parking lot, landscaping and drainage infrastructure at the South Valley aquatic center in Bernalillo county;] LINE-ITEM VETO~~

12. thirty thousand dollars (\$30,000) to purchase, install, plan, design, construct, equip and furnish improvements and additions to the South Valley economic development center in Bernalillo county;

13. ten thousand dollars (\$10,000) to plan, design, construct, equip, furnish, purchase and install improvements and information technology, including related equipment, furniture and infrastructure, at the South Valley economic development center in Bernalillo county;

14. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish a gymnasium and youth boxing facility in the South Valley in Bernalillo county;

15. one hundred seventy-five thousand dollars (\$175,000) to design and construct security improvements to reception and waiting areas for victims of domestic violence at the second judicial district courthouse in Albuquerque in Bernalillo county;

16. twenty-five thousand dollars (\$25,000) to purchase and install security cameras for the Alamosa community center in Albuquerque in Bernalillo county;

17. fifteen thousand dollars (\$15,000) to plan, design, purchase, construct and install improvements, including playground and other equipment, to Anderson Highlands park in Albuquerque in Bernalillo county;

~~[18. fifty thousand dollars (\$50,000) to renovate and equip a facility for arts programming for persons with disabilities in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

19. eleven thousand nine hundred dollars (\$11,900) to plan, design, purchase, construct and install backstop fencing and fence side panels at Eastdale little league fields in Albuquerque in Bernalillo county;

20. thirty thousand dollars (\$30,000) to plan, design and construct repairs and replacements, including fencing, sidewalks, bullpens and gates, for the Eastdale little league fields in Albuquerque in Bernalillo county;

~~[21. twenty three thousand four hundred dollars (\$23,400) to purchase and install synthetic turf at Eastdale little league fields in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

22. four hundred seventy-four thousand six hundred dollars (\$474,600) to plan, design, construct and equip phase 1B of the cradle through career science, technology, engineering and mathematics learning campus, including design, construction, purchase and installation of exhibits, furnishings, equipment, information technology and related infrastructure, at Explora science center and children's museum in Albuquerque in Bernalillo county;

23. one hundred sixty thousand dollars (\$160,000) to purchase hydraulic combination extrication units, also known as jaws of life, for the fire department in Albuquerque in Bernalillo county;

~~[24. one hundred ninety seven thousand five hundred dollars (\$197,500) to plan, design, construct, equip and install showers, toilets, stalls and lockers on municipal buses in Albuquerque in Bernalillo county;~~

~~25. one hundred twelve thousand three hundred dollars (\$112,300) to plan, design, construct, equip and furnish a library in the international district of council district 6 in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

26. sixty thousand dollars (\$60,000) to acquire land and rights of way and to plan, design, construct, renovate, upgrade, expand and equip phase 1 of a fire station in the Juan Tabo Hills area of southeast Albuquerque in Bernalillo county;

27. seventy-three thousand one hundred dollars (\$73,100) for phase 1 planning, design, construction, expansion and equipping of Juan Tabo Hills park in Albuquerque in Bernalillo county;

~~[28. seventy five thousand dollars (\$75,000) to purchase equipment for and to plan, design, construct, landscape and make site improvements to the Ladera golf course in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

29. ninety thousand dollars (\$90,000) to plan, design, construct, equip, purchase and install improvements, including accessible paths, bleachers and bleacher pads, bathrooms, a concession stand, shade structures and a storage container, for the Lobo little league fields in Albuquerque in Bernalillo county;

30. three hundred forty-six thousand four hundred dollars (\$346,400) to plan, design and construct the Loma Linda community center gymnasium in Albuquerque in Bernalillo county;

31. three hundred thousand eight hundred dollars (\$300,800) to purchase, equip, construct and install equipment for a commercial kitchen and food business incubator in the downtown mainstreet development area in Albuquerque in Bernalillo county;

32. two hundred fifty-five thousand eight hundred dollars (\$255,800) to plan, design and construct improvements, renovations and upgrades to the fields and infrastructure at the Mile High little league fields in Albuquerque in Bernalillo county;

33. three hundred twenty-four thousand three hundred dollars (\$324,300) to purchase mobile video trailers for Albuquerque in Bernalillo county;

34. thirty-one thousand dollars (\$31,000) to plan, design, construct, renovate, upgrade, equip and expand Montgomery park in Albuquerque in Bernalillo county;

35. three hundred forty-six thousand dollars (\$346,000) to plan, design, construct, renovate and make improvements to the north Domingo Baca multigenerational center in Albuquerque in Bernalillo county;

36. two hundred thousand dollars (\$200,000) to plan, design, construct, expand, renovate, purchase and install phase 2 improvements to the Pat Hurley park and community center in Albuquerque in Bernalillo county;

~~[37. one hundred thousand dollars (\$100,000) to plan, design and construct an artificial turf baseball field at the Petroglyph little league fields in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

38. forty-five thousand dollars (\$45,000) to plan, design and construct safety improvements at the Petroglyph little league park in Albuquerque in Bernalillo county;

39. six hundred eighty thousand four hundred dollars (\$680,400) to purchase and equip police response vehicles for Albuquerque in Bernalillo county;

40. one hundred two thousand three hundred dollars (\$102,300) to acquire land for and to plan, design, construct, equip and furnish a regional crisis triage and response center in Albuquerque in Bernalillo county;

41. sixty thousand dollars (\$60,000) to purchase, install, furnish and equip a storage facility~~[, scoreboard]~~ and baseball equipment for the Roadrunner little league in Albuquerque in Bernalillo county; *LINE-ITEM VETO*

~~[42. ten thousand dollars (\$10,000) to design, construct and equip a route 66 arch on west Central avenue in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

~~[43. eighty thousand dollars (\$80,000) to acquire land and to plan, construct, purchase, furnish and equip a route 66 visitors center on west Central avenue in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

44. thirty-two thousand three hundred dollars (\$32,300) to plan, design, construct, equip and furnish a police substation in the southeast area of Albuquerque in Bernalillo county;

45. seventy-five thousand dollars (\$75,000) to acquire land for and to plan, design and construct a park facility in the southeast and mid-heights area of Albuquerque in Bernalillo county;

46. sixty thousand dollars (\$60,000) to plan, design, construct, purchase and install improvements, including playground equipment, shade structures and picnic tables, at Sunrise Terrace park in Albuquerque in Bernalillo county;

47. four hundred eighty thousand dollars (\$480,000) to plan, design, construct, equip and furnish a community room addition to the Taylor Ranch library in Albuquerque in Bernalillo county;

48. ten thousand dollars (\$10,000) to plan, design, construct, renovate, furnish and equip the warehouse 508 facility and grounds, including purchase and installation of information technology, fencing, wiring and infrastructure, in Albuquerque in Bernalillo county;

49. one hundred fifty thousand dollars (\$150,000) to purchase property for a park north of Wells Park community center in Albuquerque in Bernalillo county;

50. thirty-eight thousand eight hundred dollars (\$38,800) to acquire land for and to plan, design and construct infrastructure improvements in the west Central avenue area for the west Central metropolitan redevelopment district in Albuquerque in Bernalillo county;

51. one hundred twenty thousand dollars (\$120,000) to construct a women's memorial park at Amole Mesa avenue and 118th street in Albuquerque in Bernalillo county;

52. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, purchase and install improvements at the Zia little league facility in southeast Albuquerque in Bernalillo county;

53. two hundred forty-five thousand eight hundred dollars (\$245,800) to plan, design and construct renovations and improvements to the buildings and grounds of a child development and family services facility, including roofing, auxiliary storage sheds and building systems, at a facility site in the South Valley in Bernalillo county and to purchase and install teleconferencing and information technology equipment at facility sites in the South Valley and in the southeast heights in Albuquerque in Bernalillo county;

54. three hundred fifty-seven thousand three hundred dollars (\$357,300) to plan, design and renovate buildings, including interior and exterior finish work, replacement of roofs and building systems, the purchase and installation of security cameras and a security system and improvements to the parking lot and landscaping, at a transitional living center in Albuquerque in Bernalillo county;

55. sixty-one thousand one hundred dollars (\$61,100) to purchase and install drug and metal detection equipment in the county youth services center in Albuquerque in Bernalillo county;

56. one hundred twenty-four thousand three hundred dollars (\$124,300) to plan, design, construct, equip, purchase and install improvements to the county youth services center in Albuquerque in Bernalillo county;

57. thirty-five thousand dollars (\$35,000) to plan, design, construct and renovate open space and trails along acequias, ditches and drains in the middle Rio Grande conservancy district in Albuquerque in Bernalillo county;

58. eighty thousand dollars (\$80,000) to purchase, construct, install, equip and furnish a fire department building for la merced del pueblo de Chilili in Bernalillo county;

59. forty-one thousand dollars (\$41,000) to purchase and install equipment and a greenhouse for a veteran agriculture and job training program in Los Ranchos de Albuquerque in Bernalillo county;

60. sixty-eight thousand two hundred fifty dollars (\$68,250) to purchase and equip vehicles for public safety and maintenance in Tijeras in Bernalillo county;

61. thirty thousand dollars (\$30,000) to plan, design and construct a building for storage and maintenance of public works equipment in Tijeras in Bernalillo county;

62. one hundred thousand dollars (\$100,000) to purchase and equip an ambulance for Reserve in Catron county;

63. two hundred forty-six thousand eight hundred dollars (\$246,800) to plan, design, construct, purchase, equip and install an elevator in the county courthouse, including building and site modifications [~~and signage~~], in Roswell in Chaves county; *LINE-ITEM VETO*

64. two hundred twenty thousand dollars (\$220,000) to acquire land for and to plan, design, purchase, construct, install and equip a digital trunk radio system, including site improvements and related facilities, in Chaves county;

65. one hundred thousand dollars (\$100,000) to purchase and equip handicapped-accessible vans for veteran transportation in Chaves county;

~~[66. two hundred seventy-five thousand dollars (\$275,000) to plan, design and construct docks on lake Van in Dexter in Chaves county;]~~ *LINE-ITEM VETO*

67. sixty-five thousand dollars (\$65,000) to plan, design, construct and install improvements at the Angell sports complex, including a walking path, landscaping, lighting and benches, in Hagerman in Chaves county;



68. one hundred fifty thousand dollars (\$150,000) to purchase and equip a backhoe and loader, including attachments, for Lake Arthur in Chaves county;

69. one million four hundred eighty-five thousand six hundred dollars (\$1,485,600) to plan, design, construct, renovate and improve the Roswell international air center, including roof replacements and fire suppression and electrical system upgrades, in Chaves county;

70. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and improve streets in South Park cemetery in Roswell in Chaves county;

71. one hundred seventy-five thousand dollars (\$175,000) to purchase and equip road equipment for Cibola county;

72. one hundred forty-three thousand dollars (\$143,000) to purchase and equip vehicles for the sheriff's department in Cibola county;

73. two hundred eight thousand dollars (\$208,000) to plan, design, construct and equip a flood control facility and park at Mirabal park in Milan in Cibola county;

74. thirty-five thousand dollars (\$35,000) to plan, design, construct, equip and furnish a health care clinic for the south central Colfax county special hospital district in Cimarron in Colfax county;

75. seventy-five thousand dollars (\$75,000) to plan, design, construct, furnish and install accessible restrooms in Enchanted Eagle park in Eagle Nest in Colfax county;

76. seventy-five thousand dollars (\$75,000) to furnish and equip the county detention center and sheriff's department facility in Raton in Colfax county;

77. one hundred seventy-five thousand dollars (\$175,000) to purchase and equip public works equipment and vehicles for Raton in Colfax county;

78. sixty thousand dollars (\$60,000) to plan, design, equip, remodel, furnish and improve the Clovis business enterprise center, including parking lots, alleys, the solar energy system, the power backup system, electrical systems, landscaping and lighting, in Curry county;

79. forty-six thousand eight hundred dollars (\$46,800) to purchase, install and replace heating, ventilation and air conditioning units at the county public health office in Clovis in Curry county;

80. one hundred thirty thousand dollars (\$130,000) to plan, design, construct and equip electrical improvements to the county courthouse in Fort Sumner in De Baca county;

81. one hundred twenty thousand dollars (\$120,000) to plan, design and construct improvements, including electrical, plumbing and sidewalks, at the Dona Ana county fairgrounds in Dona Ana county;

82. eighty-one thousand eight hundred dollars (\$81,800) to plan, design and construct multipurpose trail lighting in Vado in Dona Ana county;

83. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install equipment and renovations at Adams park in Anthony in Dona Ana county;

84. one hundred ten thousand dollars (\$110,000) to plan, design and construct improvements to the Chamberino mutual domestic water consumer and sewer association baseball park in Chamberino in Dona Ana county;

~~85. ten thousand dollars (\$10,000) to construct, purchase and install shelving and a television at the children's library in Hatch in Dona Ana county;~~

~~86. twenty-five thousand dollars (\$25,000) to construct an announcer's stand at the Frank Hinojos ballpark in Hatch in Dona Ana county;~~

~~87. one hundred fifteen thousand dollars (\$115,000) to acquire rights of way and to plan, design and construct gateway signs in Hatch in Dona Ana county;]~~  
*LINE-ITEM VETO*

88. one hundred forty-nine thousand five hundred dollars (\$149,500) to plan, design and construct improvements to the Branigan cultural center, including hazardous materials abatement and replacement of the ceiling, in Las Cruces in Dona Ana county;

89. three hundred eighty-eight thousand dollars (\$388,000) to plan, design, construct, renovate, furnish and equip improvements, including a sustainable roof, exterior renovation, security, parking, drainage and accessibility, for a health facility at the Mesilla Valley community of hope health complex in Las Cruces in Dona Ana county;

90. thirty thousand dollars (\$30,000) to plan, design, construct and equip kitchen and laundry room facilities for the Mesilla Valley community of hope homeless facility in Las Cruces in Dona Ana county;

91. eighty-five thousand eight hundred dollars (\$85,800) to plan, design, construct, furnish and equip a facility for storage and distribution of food for an emergency food program in Las Cruces in Dona Ana county;

92. one hundred forty thousand dollars (\$140,000) to purchase and equip a squad vehicle for firefighting and emergency medical services for the fire department in Las Cruces in Dona Ana county;

93. ninety thousand dollars (\$90,000) to plan, design and construct improvements to the fire station 2 building and site, including interior bay repair, accessibility features, parking lot improvements and drive pad repair, in Las Cruces in Dona Ana county;

~~[94. twenty thousand dollars (\$20,000) to plan, design, construct, purchase and install lighting in the Mesquite historic district in Las Cruces in Dona Ana county;~~

~~95. eighty two thousand five hundred dollars (\$82,500) to plan, design, construct, purchase and install signs in the vicinity of the Mesquite historic district in Las Cruces in Dona Ana county;] LINE-ITEM VETO~~

96. one hundred forty thousand dollars (\$140,000) to plan, design, construct, purchase and install playground equipment and improvements to parks in Las Cruces in Dona Ana county;

97. thirty-three thousand dollars (\$33,000) to plan, design, construct and equip improvements to Pioneer Women's park in Las Cruces in Dona Ana county;

98. one hundred sixteen thousand eight hundred dollars (\$116,800) to purchase and install mobile data terminals in police department vehicles in Las Cruces in Dona Ana county;

~~[99. seventy nine thousand eight hundred dollars (\$79,800) to purchase transit buses for the south central regional transit district in Dona Ana county;] LINE-ITEM VETO~~

100. forty thousand dollars (\$40,000) to purchase and install information technology and furniture and to equip the Mesquite community center in Mesquite in Dona Ana county;

101. one hundred thousand dollars (\$100,000) to purchase and equip law enforcement vehicles for Sunland Park in Dona Ana county;

~~[102. one hundred thousand dollars (\$100,000) to plan, design and construct a mental health facility in Carlsbad in Eddy county;] LINE-ITEM VETO~~

103. fifty thousand dollars (\$50,000) to purchase and equip a utility pickup truck in Hope in Eddy county;

104. sixty thousand dollars (\$60,000) to purchase and equip vehicles for the sheriff's department in Grant county;

105. one hundred eighty-five thousand dollars (\$185,000) to plan, design and construct recreational facility improvements, including site work and the purchase of equipment and furnishings, in Bayard in Grant county;

~~[106. fifty thousand dollars (\$50,000) to purchase and equip a backhoe for Hurley in Grant county;]~~ *LINE-ITEM VETO*

107. one hundred thousand dollars (\$100,000) to plan, design and construct cemetery improvements in Santa Clara in Grant county;

108. forty thousand dollars (\$40,000) to purchase and equip maintenance vehicles for Santa Clara in Grant county;

109. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip improvements and upgrades at the county detention center in Silver City in Grant county;

~~[110. two hundred thirty-three thousand dollars (\$233,000) to plan, design, construct, furnish and equip the Pecos theatre, including the purchase and installation of a digital projector, concession equipment and an exterior marquee, in Santa Rosa in Guadalupe county;]~~ *LINE-ITEM VETO*

111. forty thousand dollars (\$40,000) to purchase and equip an ambulance for Santa Rosa in Guadalupe county;

112. eighteen thousand dollars (\$18,000) to purchase and equip a computer-aided dispatch system for the Santa Rosa police department in Guadalupe county;

113. two hundred fifty thousand dollars (\$250,000) to purchase and equip a road grader in Hidalgo county;

114. fifty thousand dollars (\$50,000) to purchase patient beds for Nor-Lea general hospital in the Nor-Lea special hospital district in Lea county;

115. one hundred sixty-eight thousand eight hundred dollars (\$168,800) to plan, design, purchase, construct, equip and landscape a temporary animal shelter facility, including utilities installation, in Eunice in Lea county;

~~[116. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, furnish and equip a teen and community center in Jal in Lea county;] *LINE-ITEM VETO*~~

117. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, renovate, expand, equip and furnish the county courthouse, including heating, ventilation and air conditioning improvements and purchase and installation of information technology and related infrastructure, in Lovington in Lea county;

118. fifty thousand dollars (\$50,000) to purchase and equip an aerial firefighting ladder truck for the fire department in Lovington in Lea county;

119. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and equip a firing range in Lovington in Lea county;

120. two hundred twenty-seven thousand five hundred dollars (\$227,500) to plan, design and construct an expansion to the terminal at the Lea county regional airport in Hobbs in Lea county;

~~[121. ten thousand dollars (\$10,000) to plan, design, purchase and construct improvements, including a multipurpose room, to the Capitan Depot museum in Capitan in Lincoln county;] *LINE-ITEM VETO*~~

122. one hundred sixty-four thousand five hundred dollars (\$164,500) to plan, design, construct, renovate, equip and improve space in the Horton complex to convert classroom space into court services and hearing space for the twelfth judicial district court in Ruidoso in Lincoln county;

123. forty-seven thousand six hundred fifty dollars (\$47,650) for forest thinning and fire mitigation in Ruidoso in Lincoln county;

124. three hundred twenty-six thousand three hundred fifty dollars (\$326,350) to plan, design and construct a city hall in Ruidoso Downs in Lincoln county;

125. one hundred thousand dollars (\$100,000) to plan, design and construct affordable housing infrastructure in Los Alamos county;

126. two hundred twenty-five thousand dollars (\$225,000) to acquire land and a building and to plan, design, construct, equip and furnish improvements, including a secure entrance area and code compliance and accessibility features, at the domestic violence shelter in Deming in Luna county;

127. fifty thousand dollars (\$50,000) to purchase and equip public safety vehicles in McKinley county;

128. two hundred twenty-six thousand dollars (\$226,000) to purchase and equip vehicles for the police department in Gallup in McKinley county;

129. twenty-five thousand dollars (\$25,000) to plan, design and construct pillars and panels at the Gallup-McKinley county veterans memorial in Gallup in McKinley county;

130. one hundred ninety-five thousand dollars (\$195,000) to purchase, equip and replace buses for the north central regional transit district in Rio Arriba, Santa Fe, Los Alamos and Taos counties;

131. fifty thousand dollars (\$50,000) to purchase equipment and vehicles to improve canal delivery efficiency for the Arch Hurley conservancy district in Quay and San Miguel counties;

132. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct and equip an emergency operations center in Otero county;

133. two hundred forty thousand dollars (\$240,000) to design, construct, purchase and equip playground shade structures at Alameda park zoo, Alamogordo family recreation center, Griggs field, Hermoso el Sol, Paiute park and University park in Alamogordo in Otero county;

134. one hundred thousand dollars (\$100,000) to purchase and equip vehicles for the police department in Alamogordo in Otero county;

135. fifty thousand dollars (\$50,000) to purchase and equip a grounds mower for the Timberon water and sanitation district in Otero county;

136. two hundred twenty-five thousand dollars (\$225,000) to plan, design, renovate, construct and equip improvements to the county detention center in Tucumcari in Quay county;

137. fifty thousand dollars (\$50,000) to plan, design and renovate a facility to serve as a rehabilitation center for individuals with severe disabilities in Alcalde in Rio Arriba county;

138. ninety-five thousand dollars (\$95,000) to purchase and equip a water tanker vehicle for the volunteer fire department in Abiquiu in Rio Arriba county;

139. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip a city hall complex in Chama in Rio Arriba county;

~~[140. sixty thousand dollars (\$60,000) to plan, design, construct and equip improvements to the county community center in Coyote in Rio Arriba county;]~~ *LINE-ITEM VETO*

141. two hundred fifteen thousand dollars (\$215,000) to plan, design and construct improvements to Ranchitos pool and park in Espanola in Rio Arriba county;

142. ninety-seven thousand eight hundred dollars (\$97,800) to plan, design, construct, renovate, furnish and equip improvements to the San Joaquin del Rio de Chama land grant-merced community center in Rio Arriba county;

143. twenty thousand dollars (\$20,000) to purchase and equip a water tanker for the Truchas fire department in Rio Arriba county;

144. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate, expand and equip improvements to a substance abuse rehabilitation facility in Velarde in Rio Arriba county;

145. one hundred twenty thousand dollars (\$120,000) to purchase and equip a backhoe loader in Elida in Roosevelt county;

146. one hundred fifty thousand dollars (\$150,000) to purchase and install surgical operating suite equipment and other equipment for the Roosevelt general hospital in the Roosevelt county special hospital district in Portales in Roosevelt county;

147. twenty thousand dollars (\$20,000) to plan, design and construct improvements to kitchen and laundry floors at the detention center in San Miguel county;

148. thirty-five thousand dollars (\$35,000) to purchase, construct and install a proprietary fiber-optic line for San Miguel county;

149. thirty thousand dollars (\$30,000) to purchase mechanical biological treatment equipment in San Miguel county;

150. one hundred five thousand eight hundred forty-four dollars (\$105,844) to purchase and equip public works equipment and vehicles for road maintenance and solid waste transport in San Miguel county;

~~151. seven thousand eight hundred eighty-one dollars (\$7,881) to plan, design, construct, renovate, furnish and equip the buildings and grounds, including the purchase of information technology and related infrastructure, equipment and furniture, for a children and family support services facility in Las Vegas in San Miguel county;~~

~~152. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to a community center for the San Miguel del Bado land grant-merced in Villanueva in San Miguel county;] LINE-ITEM VETO~~

153. ten thousand dollars (\$10,000) to plan, design, purchase and install public safety communications infrastructure for Sandoval county;

154. fifty thousand dollars (\$50,000) to purchase and equip a portable classroom and commercial kitchen and to plan, design, construct and equip improvements, including infield leveling, electric power, batting cages, [~~scoreboards,~~] dugouts, meeting rooms, concession stands and shade structures, for the Coronado little league fields in Bernalillo in Sandoval county; *LINE-ITEM VETO*

155. four hundred eighty-one thousand six hundred dollars (\$481,600) for improvements to the Sandoval county detention center, including the purchase and installation of surveillance cameras, cell locks, fencing, exterior lighting, servers and building systems, in Bernalillo in Sandoval county;

~~[156. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and equip a performing arts space at the site of the old public works garage in Corrales in Sandoval county;] *LINE-ITEM VETO*~~

157. fifty thousand dollars (\$50,000) to plan, design, construct and equip heating, plumbing and electrical services for a public works building in Corrales in Sandoval county;

158. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements, including infield leveling, electric power, batting cages, [~~scoreboards,~~] dugouts, [~~meeting rooms,~~] concession stands and shade structures, for the Cibola little league fields in Rio Rancho in Sandoval county; *LINE-ITEM VETO*

159. ninety-five thousand dollars (\$95,000) to plan, design and construct improvements to vehicle bays, living quarters and roofs at Rio Rancho fire stations, including stations 5, 3, 6 and 1, in Rio Rancho in Sandoval county;

160. twenty thousand dollars (\$20,000) to construct and equip improvements to the sports complex for little league, including batting cage improvements, nets, [~~artificial turf,~~] surfacing improvements, fencing and screens, in Rio Rancho in Sandoval county; *LINE-ITEM VETO*

161. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip improvements, including infield leveling, electric power, batting cages, [~~scoreboards,~~] dugouts, [~~meeting rooms,~~] concession stands and shade structures, for the Sunset little league fields in Rio Rancho in Sandoval county; *LINE-ITEM VETO*

162. fifty thousand dollars (\$50,000) to plan, design and construct a maintenance, storage and utility building, including parking lot improvements, at the premises of the Agua Fria community water system association water board office building in the Agua Fria area in Santa Fe county;

163. sixty thousand dollars (\$60,000) to purchase and equip a water utility service truck for the Agua Fria community water system association in the Agua Fria area of Santa Fe county;



164. fifty thousand dollars (\$50,000) to purchase and install security equipment, including security cameras, an alarm system, office equipment, furniture and information technology, for the Agua Fria community water system association water board building and the Agua Fria community water system association pump house in Agua Fria village in Santa Fe county;

165. one hundred thousand dollars (\$100,000) to plan, design and construct trails in the Eldorado subdivision in Santa Fe county;

~~[166. fifty thousand dollars (\$50,000) to plan, design and construct plumbing and floor improvements at the Comunidad de los Niños head start center in Santa Fe in Santa Fe county;]~~ *LINE-ITEM VETO*

167. one million five hundred thousand dollars (\$1,500,000) to design and construct an expansion of the Santa Fe regional airport passenger parking facility, including paving, fencing, automated gates and light-emitting diode lighting, in Santa Fe county;

~~[168. two hundred thousand dollars (\$200,000) to plan, design, construct and renovate a file room to serve as a conference room at the Steve Herrera judicial complex in Santa Fe in Santa Fe county;]~~ *LINE-ITEM VETO*

169. one hundred thousand dollars (\$100,000) to purchase, install and construct a heating, ventilation, air conditioning and dehumidification system in the Genoveva Chavez community center in Santa Fe in Santa Fe county;

170. two hundred eighteen thousand three hundred dollars (\$218,300) to plan, design, renovate, construct, improve and equip a facility and to purchase and install information technology, including related equipment, furniture and infrastructure, for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;

171. two hundred thousand eight hundred dollars (\$200,800) to plan, design and construct the Southwest Activity Node park, including purchase and installation of security cameras, in Santa Fe in Santa Fe county;

172. four hundred thousand dollars (\$400,000) to plan, design, construct and purchase materials for flood and drainage control in Sierra county;

173. seventy-five thousand dollars (\$75,000) to plan, design, renovate, construct and equip the community center in Hillsboro in Sierra county;

174. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a commercial kitchen in the Sabinal/Abeytas community center in Socorro county;

175. two hundred thirty-five thousand dollars (\$235,000) to plan, design, construct and improve a multipurpose complex, including bleachers, [~~signage,~~] lighting and a recreational vehicle park welcome station, in Socorro in Socorro county; *LINE-ITEM VETO*

~~[176. twenty thousand dollars (\$20,000) to acquire land for and to plan, design and construct a building for the Don Fernando de Taos land grant merced in Taos county;] *LINE-ITEM VETO*~~

177. seventy-three thousand eight hundred dollars (\$73,800) to plan, design and construct a veterans' cemetery in Taos county;

178. one hundred fifty thousand dollars (\$150,000) to purchase and equip an ambulance in Questa in Taos county;

179. fifty thousand dollars (\$50,000) to purchase and equip police vehicles for Questa in Taos county;

180. fifty thousand dollars (\$50,000) to purchase and equip a street sweeper for Taos in Taos county;

181. seventy thousand dollars (\$70,000) to plan, design and construct improvements to fire stations in Torrance county;

182. twenty-five thousand dollars (\$25,000) to purchase a road reclaimer for the county road department in Torrance county;

183. thirty thousand dollars (\$30,000) to plan, design and construct improvements to the electrical system, including an exhaust fan, in the kitchen of the community center in Encino in Torrance county;

184. fifty thousand dollars (\$50,000) to construct interior and exterior improvements and renovations and to purchase and install kitchen equipment, office equipment, fixtures, books and information technology at the Torreon community center and library in Torreon in Torrance county;

185. twenty-five thousand dollars (\$25,000) to plan, design, renovate and construct a multipurpose facility in Rio Communities in Valencia county;

186. three hundred thousand dollars (\$300,000) to plan, design and construct phase 2 of the Belen veterans memorial in Valencia county;

187. one hundred thirty-one thousand dollars (\$131,000) to purchase and equip police vehicles in Bosque Farms in Valencia county;

188. three hundred twenty-two thousand five hundred dollars (\$322,500) to plan, design, construct, renovate and abate health and safety code violations at the Valencia county administrative complex in Los Lunas in Valencia county;

~~[189. one hundred thousand dollars (\$100,000) to prepare the site and to plan, design and construct improvements, including landscaping and walking paths, for a community center and park in Peralta in Valencia county;~~

~~190. seventy-one thousand dollars (\$71,000) to purchase vehicles and equipment for the animal control and public works departments in Peralta in Valencia county;] and *LINE-ITEM VETO*~~

191. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip phase 4 renovations to the city hall facility in Rio Communities in Valencia county.

## **Chapter 80 Section 27 Laws 2018**

SECTION 27. DEPARTMENT OF MILITARY AFFAIRS PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of military affairs that the need exists for the issuance of the bonds, one million dollars (\$1,000,000) is appropriated to the department of military affairs for improvements, repairs and demolition, to purchase and install systems to improve energy efficiency and for staging areas at department of military affairs facilities statewide.

## **Chapter 80 Section 28 Laws 2018**

~~[SECTION 28. NEW MEXICO HOUSE OF REPRESENTATIVES PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the legislative council service that the need exists for the issuance of the bonds, fifty thousand dollars (\$50,000) is appropriated to the New Mexico house of representatives for expenditure by the legislative council service to design, construct, purchase and install a bust of Manuel A. Chaves, including a base, in the state capitol building in Santa Fe in Santa Fe county.] *LINE-ITEM VETO*~~

## **Chapter 80 Section 29 Laws 2018**

SECTION 29. DEPARTMENT OF PUBLIC SAFETY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of public safety that the need exists for the issuance of the bonds, eleven million one hundred seventy-two thousand dollars (\$11,172,000) is appropriated to the department of public safety to purchase and equip a search and rescue helicopter for New Mexico state police operations statewide.

## **Chapter 80 Section 30 Laws 2018**

SECTION 30. OFFICE OF THE SECRETARY OF STATE PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the secretary of state that the need exists for the issuance of the bonds, eight hundred twenty-five thousand dollars (\$825,000) is appropriated to the office of the secretary of state to purchase and install information technology hardware, including servers and related infrastructure upgrades, for the office of the secretary of state in Santa Fe in Santa Fe county.

## **Chapter 80 Section 31 Laws 2018**

SECTION 31. SPACEPORT AUTHORITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the spaceport authority that the need exists for the issuance of the bonds, the following amounts are appropriated to the spaceport authority for the following purposes:

1. five hundred thousand dollars (\$500,000) to plan, design, repair, construct, furnish and equip infrastructure upgrades, including electrical, fire suppression, water, sewer, security, mission control, heating, ventilation and air conditioning and building systems, at spaceport America facilities in Sierra county;
2. five hundred thousand dollars (\$500,000) to plan, design and construct a launch vehicle payload integration facility at spaceport America in Sierra county; and
3. five million dollars (\$5,000,000) to perform environmental studies and plan, design, construct and equip a fuel farm, including fencing and security systems, at spaceport America in Sierra county.

## **Chapter 80 Section 32 Laws 2018**

SECTION 32. DEPARTMENT OF TRANSPORTATION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of transportation that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of transportation for the following purposes:

1. one million eight hundred sixty-nine thousand five hundred dollars (\$1,869,500) to acquire rights of way and to design and construct paseo del Volcan, also known as New Mexico highway 347, in Sandoval and Bernalillo counties;

~~2. two hundred ninety-five thousand dollars (\$295,000) to plan, design, replace and construct median landscaping on Alameda boulevard from Guadalupe trail NW to the Rio Grande in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

3. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to roads, including drainage and utility improvements, in county commission district 5 in Bernalillo county;

4. six hundred five thousand dollars (\$605,000) to plan, design, construct and improve roads and drainage for an industrial park and transload facility in Bernalillo county;

5. one hundred seventy thousand dollars (\$170,000) to design and construct improvements to Isleta boulevard SW from Muniz road SW to interstate 25 in Bernalillo county;

6. eighty thousand dollars (\$80,000) to design and construct sidewalks and drainage infrastructure on Prince street SE, Prosperity avenue SE and other streets in the Mountainview neighborhood in Bernalillo county;

7. one hundred seventy thousand dollars (\$170,000) to plan, design and construct street and pedestrian improvements on Fourth street SW between Coal avenue SW and Bridge boulevard SW in the Barelvas neighborhood of Albuquerque in Bernalillo county;

8. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to sidewalks and retaining walls, including demolition and accessibility improvements, on Fourth street NW between Montano road NW and Alamosa road NW in Albuquerque in Bernalillo county;

9. ten thousand dollars (\$10,000) to plan, design and construct improvements to 86th street SW in Albuquerque in Bernalillo county;

10. twenty thousand dollars (\$20,000) to plan, design and construct a storm drain in the area of 90th street and Eucariz avenue SW in Albuquerque in Bernalillo county;

~~11. fifty thousand dollars (\$50,000) to design, construct and landscape medians in city council district 3 in Albuquerque in Bernalillo county;~~ *LINE-ITEM VETO*

12. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, upgrade, expand and equip the bike trail and landscaping at the intersection of Tramway boulevard NE and Indian School road NE in Albuquerque in Bernalillo county;

13. two hundred thousand eight hundred dollars (\$200,800) to acquire rights of way and to plan, design, construct ~~[and landscape]~~ Ladera road NW, including pedestrian and traffic control features, between Gavin road and Coors boulevard in Albuquerque in Bernalillo county; *LINE-ITEM VETO*

~~[14. five thousand dollars (\$5,000) to plan, design and construct a pedestrian crossing with a traffic signal on Lomas boulevard between Pennsylvania street NE and Texas street NE in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

15. seventy-five thousand dollars (\$75,000) to plan, design, construct and renovate Matthew avenue NW between 12th street NW and 4th street NW in Albuquerque in Bernalillo county;

~~[16. thirty thousand dollars (\$30,000) to plan, design, construct and make site improvements to a median at the intersection of Tower road SW and 98th street SW in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

17. two hundred thousand dollars (\$200,000) to purchase rights of way and property and to plan, design and construct improvements to Fourth street in Los Ranchos de Albuquerque in Bernalillo county;

18. fifty thousand dollars (\$50,000) to plan, design, construct and improve roads, including drainage, curbs, gutters, sidewalks and accessibility features, in Tijeras in Bernalillo county;

19. sixty-eight thousand three hundred dollars (\$68,300) to plan, design and construct street and drainage improvements in Reserve in Catron county;

20. two hundred five thousand five hundred twelve dollars (\$205,512) to plan, design, construct and install road and intersection improvements to Hobson road and United States highway 285 south, including culverts and drainage improvements, in Chaves county;

21. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and improve First and Second streets, including sidewalks, curbs, gutters, sewers and drainage, in Grants in Cibola county;

22. thirty-five thousand dollars (\$35,000) to plan, design, construct, purchase, install and furnish improvements to Main street, including lighting, landscaping and safety and accessibility improvements, in Springer in Colfax county;

23. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase and install street, sidewalk ~~[and signage]~~ improvements, including accessibility improvements, in Springer in Colfax county; *LINE-ITEM VETO*

24. seven hundred thirteen thousand four hundred dollars (\$713,400) to plan, design and construct improvements to county roads 4, 14, 20 and E in Curry county;

25. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to 7th street from Norris street to Maple street in Clovis in Curry county;

26. one million one hundred thirty-eight thousand dollars (\$1,138,000) to acquire rights of way and to plan, design, construct and make improvements for runways at the Dona Ana county international jetport at Santa Teresa in Dona Ana county;

27. one million one hundred one thousand dollars (\$1,101,000) to acquire rights of way and to plan, design and construct road and drainage improvements to Soledad Canyon road from Dripping Springs road to the entrance of the Organ Mountains-Desert Peaks national monument in Dona Ana county;

28. seventy-five thousand dollars (\$75,000) to plan, design and construct road and drainage improvements along via Norte in Dona Ana county;

29. four hundred twenty-five thousand eight hundred dollars (\$425,800) to plan, design, construct, purchase and install landscaping[, signage] and drainage improvements at the interchange of interstate 10 and interstate 25 in Las Cruces in Dona Ana county; *LINE-ITEM VETO*

30. two hundred sixty thousand dollars (\$260,000) to acquire rights of way and to plan, design and construct improvements to the intersection of Telshor boulevard and Spruce avenue in Las Cruces in Dona Ana county;

31. three hundred twenty-five thousand dollars (\$325,000) to plan, design and construct road, utility and drainage improvements on Bowman street in Mesilla in Dona Ana county;

32. one hundred thousand dollars (\$100,000) to plan, design and construct roadway and drainage improvements on Memorial Pines road in Sunland Park in Dona Ana county;

33. seventy thousand dollars (\$70,000) to plan, design and construct streets in Sunland Park in Dona Ana county;

34. twenty-five thousand dollars (\$25,000) to design and construct road and drainage improvements on Mustang road from Franco road to the cul-de-sac at the end of Mustang road in Vado in Dona Ana county;

35. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including street repairs, curbs, sidewalks and gutters, to Second street from Walnut street to Cottonwood street in Loving in Eddy county;

36. one hundred thousand dollars (\$100,000) to plan, design and construct sidewalks in Silver City in Grant county;

37. twenty-five thousand eight hundred dollars (\$25,800) to plan, design and construct road and drainage improvements in Santa Rosa in Guadalupe county;

38. twenty-five thousand dollars (\$25,000) to plan and design drainage improvements for streets in Vaughn in Guadalupe county;

39. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct street and drainage improvements in Lordsburg in Hidalgo county;

40. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and make improvements to the north Commercial street bypass in Lovington in Lea county;

41. one hundred thousand dollars (\$100,000) to plan, design and construct road and drainage improvements to roads in Luna county;

42. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct and repair roads and for drainage improvements in Deming in Luna county;

43. twenty-five thousand dollars (\$25,000) to design and construct improvements to Blue Medicine Well road in the Mexican Springs chapter of the Navajo Nation in McKinley county;

44. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to Superman Canyon road, also known as county road 43, in McKinley county;

45. three hundred thirty-five thousand five hundred dollars (\$335,500) to plan, design and construct an access road for the veterans' cemetery in Gallup in McKinley county;

~~46. fifty thousand dollars (\$50,000) to design and construct improvements to Carbon Coal road in McKinley county;~~

~~47. thirty thousand dollars (\$30,000) to plan and design road improvements in the Mariano Lake chapter of the Navajo Nation in McKinley county;~~

~~48. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to Deersprings road in the Mexican Springs chapter of the Navajo Nation in McKinley county;~~



~~49. one hundred ten thousand dollars (\$110,000) to plan, design and construct repairs and improvements to Rainbow Trail road north of the Pinedale chapter of the Navajo Nation in McKinley county;~~

~~50. forty five thousand dollars (\$45,000) to plan, design and construct road improvements and infrastructure upgrades in the Red Lake chapter of the Navajo Nation in McKinley county;~~

~~51. fifty thousand dollars (\$50,000) to acquire rights of way for and to plan, design and construct road and drainage improvements in the Tse'ii'ahi' chapter of the Navajo Nation in San Juan county;] *LINE-ITEM VETO*~~

52. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to the eastern half of Cider Mill Farms road, including demolition of existing pavement, new pavement and addition of a shoulder, for the Cider Mill Farms mutual domestic water consumers association in Otero county;

53. fifty thousand dollars (\$50,000) to plan and design road and drainage improvements to Quay road AR in Quay county;

54. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to county roads in Roosevelt county;

55. forty thousand dollars (\$40,000) to plan and design drainage improvements for Portales in Roosevelt county;

56. two million four hundred seventy-two thousand four hundred dollars (\$2,472,400) to plan, design, construct and replace a bridge over the San Juan river on county road 5500 in San Juan county;

~~[57. seventy thousand dollars (\$70,000) to acquire property and to plan, design and construct public routes in, and in the vicinity of, the Beclabito chapter of the Navajo Nation in San Juan county;] *LINE-ITEM VETO*~~

58. two hundred ten thousand four hundred forty-six dollars (\$210,446) to plan, design and construct road and drainage improvements to Indian service route 57 in the Gadii'ahi/To'Koi chapter of the Navajo Nation in San Juan county;

59. twenty thousand dollars (\$20,000) to plan, design and construct road and drainage improvements to county roads A-2 and A-3 near Las Dispensas in San Miguel county;

60. eighty-one thousand five hundred dollars (\$81,500) to purchase, install and construct safety improvements to New Mexico highway 14 [in, and in the vicinity of, Madrid in Santa Fe county]; *LINE-ITEM VETO*

61. one hundred thousand dollars (\$100,000) to purchase rights of way and to plan, design and construct road improvements at the intersection of Agua Fria street and South Meadows road in Santa Fe in Santa Fe county;

62. twenty-eight thousand dollars (\$28,000) to design, construct, purchase and install lighting and sidewalks on Harrison road in Santa Fe in Santa Fe county;

63. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the intersection of Sandoval street and Montezuma avenue in Santa Fe in Santa Fe county;

64. one hundred thousand dollars (\$100,000) to plan, design, construct and improve streets, including curbs, drainage and sidewalk accessibility, in Truth or Consequences in Sierra county;

65. forty-five thousand dollars (\$45,000) to plan, design, mitigate, construct and install phase 1 flood drainage improvements and infrastructure on county road 91 and obtain right-of-way easements in Socorro county;

66. seventy-five thousand dollars (\$75,000) to plan, design and construct street improvements in Magdalena in Socorro county;

67. fifty thousand dollars (\$50,000) to acquire rights of way and to plan, design, construct and make repairs, including drainage improvements, to camino del Medio in Taos county;

68. seventy-five thousand dollars (\$75,000) to acquire rights of way and to plan, design, construct and make repairs, including drainage improvements, to camino del Medio in Taos in Taos county;

69. one hundred fifty thousand dollars (\$150,000) to plan, design and construct road and drainage improvements to county roads in Union county;

~~[70. fifty thousand dollars (\$50,000) to plan, design, purchase and install road signs for county roads in Union county;] LINE-ITEM VETO~~

71. four hundred fifty thousand dollars (\$450,000) to plan, design, replace and construct improvements to Camelot boulevard, including pavement, curbs, gutters, sidewalks, signs and striping, in Los Lunas in Valencia county;

72. two hundred fifty thousand dollars (\$250,000) to plan, design and construct an extension and interchange at interstate 25 and Morris road south of New Mexico highway 6 in Valencia county; and

73. two hundred thousand dollars (\$200,000) to plan, design and construct street improvements in Peralta in Valencia county.

## Chapter 80 Section 33 Laws 2018

SECTION 33. HIGHER EDUCATION DEPARTMENT PROJECTS--  
SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the higher education department that the need exists for the issuance of the bonds, the following amounts are appropriated to the higher education department for the following purposes:

~~[1. seventy-five thousand dollars (\$75,000) to purchase and install allied health equipment and to plan, design and construct improvements to a building on the campus of New Mexico junior college in Hobbs in Lea county;~~

~~2. two hundred thousand dollars (\$200,000) to plan, design and construct a faculty housing complex for Navajo technical university in Crownpoint in McKinley county;]~~ *LINE-ITEM VETO*

3. two hundred fifty-five thousand eight hundred fifty-four dollars (\$255,854) to plan, design, purchase and install an electronic door lock system at San Juan college in Farmington in San Juan county;

~~[4. twenty-eight thousand six hundred fifty-seven dollars (\$28,657) to purchase and install information technology and window shades, including related equipment, furniture and infrastructure, for the Senator John Pinto library at Diné college in Shiprock in San Juan county;~~

~~5. one hundred fifty thousand dollars (\$150,000) to plan, design, purchase, equip, upgrade, install and construct a greenhouse, including aquaponics equipment, for the agriculture program at Santa Fe community college in Santa Fe county;~~

~~6. fifty thousand dollars (\$50,000) to plan, design, purchase, equip, upgrade, install and construct health and sciences simulation laboratory equipment and improvements at Santa Fe community college in Santa Fe county; and]~~ *LINE-ITEM VETO*

7. twenty-five thousand dollars (\$25,000) to plan, design, purchase, equip, upgrade, install and construct student safety upgrades, including cell phone signal amplification infrastructure, at Santa Fe community college in Santa Fe county.

## Chapter 80 Section 34 Laws 2018

SECTION 34. EASTERN NEW MEXICO UNIVERSITY PROJECTS--  
SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of eastern New Mexico university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of eastern New Mexico university for the following purposes:

~~[1. twenty-one thousand four hundred thirty-five dollars (\$21,435) to purchase and equip a riding mower with accessories for the physical plant department at the Roswell branch campus of eastern New Mexico university in Chaves county;~~

~~2. forty-one thousand fifty-eight dollars (\$41,058) to purchase and equip vehicles for the physical plant department at the Roswell branch campus of eastern New Mexico university in Chaves county;] *LINE-ITEM VETO*~~

3. sixty-three thousand ninety-five dollars (\$63,095) to purchase and equip vehicles for the campus security department at the Roswell branch campus of eastern New Mexico university in Chaves county;

~~[4. five thousand dollars (\$5,000) to purchase educational robotics equipment for elementary through high school students and teachers for use in robotic design and related coding curricula for math and science classes, including a Native American voice-controlled autonomous robot and an innovation kit, for eastern New Mexico university programs serving school districts in Bernalillo, Cibola, Lincoln, McKinley, Rio Arriba, San Juan, Sandoval, Santa Fe, Socorro and Taos counties;] *LINE-ITEM VETO*~~

5. one hundred forty thousand dollars (\$140,000) to plan, design and construct a parking lot by Greyhound stadium at eastern New Mexico university in Portales in Roosevelt county; and

6. fifty thousand dollars (\$50,000) to plan, design and construct sidewalks, including lighting, by Greyhound stadium at eastern New Mexico university in Portales in Roosevelt county.

## **Chapter 80 Section 35 Laws 2018**

SECTION 35. NEW MEXICO HIGHLANDS UNIVERSITY PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico highlands university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of New Mexico highlands university for the following purposes:

~~[1. ten thousand dollars (\$10,000) to purchase and install athletic equipment for New Mexico highlands university in Las Vegas in San Miguel county;] *LINE-ITEM VETO*~~

2. eighty thousand dollars (\$80,000) to purchase and install technology and information technology improvements, including related equipment, furniture and infrastructure, on the campus and in classrooms at New Mexico highlands university in Las Vegas in San Miguel county;

3. thirty thousand dollars (\$30,000) to purchase and upgrade safety equipment for New Mexico highlands university in Las Vegas in San Miguel county[; and

~~4. one hundred thirty two thousand five hundred dollars (\$132,500) to purchase and equip vehicles, vans and buses for New Mexico highlands university in Las Vegas in San Miguel county].~~ *LINE-ITEM VETO*

## **Chapter 80 Section 36 Laws 2018**

SECTION 36. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of the New Mexico institute of mining and technology that the need exists for the issuance of the bonds, ninety thousand dollars (\$90,000) is appropriated to the board of regents of the New Mexico institute of mining and technology to plan, design and equip a hands-on creative space at the New Mexico institute of mining and technology in Socorro in Socorro county.

## **Chapter 80 Section 37 Laws 2018**

SECTION 37. NEW MEXICO STATE UNIVERSITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico state university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of New Mexico state university for the following purposes:

1. one hundred forty-six thousand dollars (\$146,000) to plan, design, construct, renovate and equip improvements to athletic facilities at New Mexico state university in Las Cruces in Dona Ana county;

2. sixty-six thousand dollars (\$66,000) for planning, design, demolition and hazardous materials abatement of facilities at New Mexico state university in Las Cruces in Dona Ana county;

3. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate, equip and install security cameras, including landscaping, sidewalks and lighting campuswide, at New Mexico state university in Las Cruces in Dona Ana county; and

4. one hundred eight thousand dollars (\$108,000) to plan, design, purchase, construct and install modular dormitory facilities at the Corona range and livestock research center of New Mexico state university in Torrance and Lincoln counties.

## **Chapter 80 Section 38 Laws 2018**

SECTION 38. UNIVERSITY OF NEW MEXICO PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of the university of New Mexico that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of the university of New Mexico for the following purposes:

~~[1. seventy-three thousand dollars (\$73,000) to plan, design, construct, purchase and install improvements, including a sound system, at the baseball facility at the university of New Mexico in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

2. one hundred fifty thousand dollars (\$150,000) to plan, design, purchase, install, equip and make improvements to the basketball facilities at the university of New Mexico in Albuquerque in Bernalillo county;

3. one hundred twenty-five thousand eight hundred one dollars (\$125,801) to purchase and install campus safety lighting at the university of New Mexico in Albuquerque in Bernalillo county;

4. fifty-six thousand five hundred dollars (\$56,500) to plan, design, construct, renovate, equip and furnish the center for high technology materials, including installation of a hazardous gas monitoring system, at the university of New Mexico in Albuquerque in Bernalillo county;

~~[5. ninety thousand dollars (\$90,000) to plan, design, construct, renovate, furnish and equip a learning laboratory at the university of New Mexico in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

6. forty-three thousand eight hundred one dollars (\$43,801) to purchase and install a vapor etcher in a cleanroom at the university of New Mexico in Albuquerque in Bernalillo county;

~~[7. seventy-three thousand eight hundred dollars (\$73,800) to design, construct and renovate the college of fine arts facilities, including purchase and installation of equipment, at the university of New Mexico in Albuquerque in Bernalillo county;~~

~~8. one hundred thirty-eight thousand eight hundred dollars (\$138,800) to design and renovate and to purchase and install equipment for the indoor practice facility at the university of New Mexico in Albuquerque in Bernalillo county;~~

~~9. one hundred twenty-three thousand eight hundred dollars (\$123,800) to plan, design, construct, renovate, furnish and equip the music practice rooms at the university of New Mexico in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

10. eighty-eight thousand eight hundred dollars (\$88,800) to design, renovate, construct, purchase, install improvements at and equip the New Mexico

poison and drug information center at the university of New Mexico in Albuquerque in Bernalillo county;

11. six hundred fifty-seven thousand eight hundred dollars (\$657,800) to plan, design, construct, purchase, install and equip an Olympic sports training facility at the university of New Mexico in Albuquerque in Bernalillo county;

12. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, equip and make improvements to the restroom facilities at Popejoy hall at the university of New Mexico in Albuquerque in Bernalillo county;

~~[13. one hundred ninety-three thousand dollars (\$193,000) to plan, design, construct, renovate, equip and furnish the Predock center for design and research in the school of architecture at the university of New Mexico in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

14. one hundred seventy thousand dollars (\$170,000) to plan, design, purchase, equip and make improvements to the student veteran support center at the university of New Mexico in Albuquerque in Bernalillo county;

~~[15. seventy thousand dollars (\$70,000) to design, construct and renovate the training center wet room, including purchase and installation of equipment, at the university of New Mexico in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

16. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, purchase and install improvements, ~~[including a wi-fi system,]~~ at University stadium at the university of New Mexico in Albuquerque in Bernalillo county[;] *LINE-ITEM VETO*

~~[17. thirty thousand dollars (\$30,000) to purchase and install equipment for the women's cross country team at the university of New Mexico in Albuquerque in Bernalillo county;~~

~~18. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the women's softball field at the university of New Mexico in Albuquerque in Bernalillo county; and~~

~~19. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, equip and furnish a facility, including information technology and related equipment, furniture and infrastructure, for the northern New Mexico land grant and acequia archives at the Taos branch campus of the university of New Mexico in Taos county].~~ *LINE-ITEM VETO*

## **Chapter 80 Section 39 Laws 2018**

SECTION 39. WESTERN NEW MEXICO UNIVERSITY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of western New Mexico university that the need exists for the issuance of the bonds, one hundred forty-six thousand eight hundred dollars (\$146,800) is appropriated to the board of regents of western New Mexico university to plan, design, purchase, equip and install virtual desktop infrastructure, including related equipment, for remote access to campus laboratory applications at western New Mexico university in Silver City in Grant county.

### **Chapter 80 Section 40 Laws 2018**

SECTION 40. CAPITAL PROGRAM FUND PROJECT--GENERAL FUND.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the capital program fund for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to develop a master plan for correctional facilities statewide.

### **Chapter 80 Section 41 Laws 2018**

SECTION 41. DEPARTMENT OF HEALTH PROJECT--GENERAL FUND.--Five hundred thousand dollars (\$500,000) is appropriated from the general fund to the department of health for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to purchase and install scientific, analytical and medical equipment, including the recalibration of existing equipment, at department of health facilities statewide.

### **Chapter 80 Section 42 Laws 2018**

SECTION 42. TAXATION AND REVENUE DEPARTMENT PROJECT--GENERAL FUND.--Three hundred seventy-two thousand dollars (\$372,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to purchase, install and equip scanners and mail slicers, including servers, information technology and related equipment and infrastructure, for the revenue processing division in Santa Fe in Santa Fe county.

### **Chapter 80 Section 43 Laws 2018**

SECTION 43. OFFICE OF THE STATE ENGINEER PROJECTS--APPROPRIATIONS FROM THE WATER PROJECT FUND.--Notwithstanding the provisions of the Water Project Finance Act to the contrary, the following amounts are appropriated from the water project fund to the office of the state engineer for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, for the following purposes:



1. two million dollars (\$2,000,000) to plan, design, construct, rehabilitate and make phase 2 improvements at Morphy lake dam in Mora county and for improvements to publicly owned dams statewide; and

2. five hundred thousand dollars (\$500,000) to purchase and install surface and ground water meters to assess water use, water supply and impairment and to ensure public welfare, conservation and water accountability statewide.

## **Chapter 80 Section 44 Laws 2018**

SECTION 44. DEPARTMENT OF ENVIRONMENT PROJECT-- APPROPRIATION FROM THE WATER PROJECT FUND.--Notwithstanding the provisions of the Water Project Finance Act to the contrary, five hundred thousand dollars (\$500,000) is appropriated from the water project fund to the department of environment for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to plan, design and construct projects to improve surface water quality and river habitat statewide.

## **Chapter 80 Section 45 Laws 2018**

SECTION 45. INDIAN WATER RIGHTS SETTLEMENT FUND-- APPROPRIATION FROM THE WATER PROJECT FUND.--Notwithstanding the provisions of the Water Project Finance Act to the contrary, two million eight hundred twenty-five thousand dollars (\$2,825,000) is appropriated from the water project fund to the Indian water rights settlement fund. Notwithstanding the requirement for a joint resolution of the legislature in Subsection A of Section 72-1-11 NMSA 1978, if a corresponding commitment has been made for the federal portion of the settlement in the Aamodt case, the money may be expended by the interstate stream commission in fiscal year 2019 and subsequent fiscal years to implement the state's portion of the settlement, and any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

## **Chapter 80 Section 46 Laws 2018**

SECTION 46. PUBLIC SCHOOL FACILITIES AUTHORITY PROJECT-- APPROPRIATION FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--Six million dollars (\$6,000,000) is appropriated from the public school capital outlay fund to the public school facilities authority for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to plan, design and install school security systems and for repairs, renovations or replacement of school security systems statewide, contingent on the approval of the public school capital outlay council.

## **Chapter 80 Section 47 Laws 2018**

SECTION 47. STATE LAND OFFICE PROJECTS--APPROPRIATIONS FROM THE STATE LANDS MAINTENANCE FUND.--The following amounts are appropriated from the state lands maintenance fund to the state land office for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred eighty thousand dollars (\$180,000) to plan, design, upgrade, repair and replace the heating, ventilation and air conditioning system at the state land office in Santa Fe in Santa Fe county; and

2. forty thousand dollars (\$40,000) to plan, design, upgrade, repair and replace the parking lot and sidewalks at the state land office in Santa Fe in Santa Fe county.

### **Chapter 80 Section 48 Laws 2018**

SECTION 48. DEPARTMENT OF GAME AND FISH PROJECT-- APPROPRIATION FROM THE SIKES ACCOUNT OF THE GAME PROTECTION FUND.--One million dollars (\$1,000,000) is appropriated from the Sikes Act account of the game protection fund to the department of game and fish for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, for fisheries renovation and wildlife and riparian habitat restoration and for improvements at properties owned by the state game commission statewide[, contingent on the department of game and fish not accepting the transfer of any property or assets of Mesilla valley bosque state park from the state parks division of the energy, minerals and natural resources department in fiscal year 2018 or 2019 without prior authorization from the legislature]. *LINE-ITEM VETO*

### **Chapter 80 Section 49 Laws 2018**

SECTION 49. DEPARTMENT OF GAME AND FISH PROJECTS-- APPROPRIATIONS FROM THE HABITAT MANAGEMENT FUND.--The following amounts are appropriated from the habitat management fund to the department of game and fish for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one million dollars (\$1,000,000) to plan, design and construct improvements related to safety compliance at dams owned by the state game commission and at publicly owned lakes and associated dams and spillways statewide; and

2. two million dollars (\$2,000,000) for fisheries renovation and wildlife and riparian habitat restoration and for improvements at properties owned by the state game commission statewide[, contingent on the department of game and fish not accepting the transfer of any property or assets of Mesilla valley bosque state park from the state

~~parcs division of the energy, minerals and natural resources department in fiscal year 2018 or 2019 without prior authorization from the legislature].~~ *LINE-ITEM VETO*

## **Chapter 80 Section 50 Laws 2018**

SECTION 50. DEPARTMENT OF GAME AND FISH PROJECTS--  
APPROPRIATIONS FROM THE GAME PROTECTION FUND.--The following amounts are appropriated from the game protection fund to the department of game and fish for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, for the following purposes:

1. three million dollars (\$3,000,000) to renovate and make improvements at hatcheries owned by the state game commission statewide;

2. one million dollars (\$1,000,000) to plan, design and construct improvements related to safety compliance at dams owned by the state game commission and at publicly owned lakes and associated dams and spillways statewide;

3. one million two hundred thousand dollars (\$1,200,000) for fisheries renovation and wildlife and riparian habitat restoration and for improvements at properties owned by the state game commission statewide~~], contingent on the department of game and fish not accepting the transfer of any property or assets of Mesilla valley bosque state park from the state parks division of the energy, minerals and natural resources department in fiscal year 2018 or 2019 without prior authorization from the legislature];~~ and *LINE-ITEM VETO*

4. five hundred thousand dollars (\$500,000) to plan, design, construct and improve new and existing shooting ranges statewide.

## **Chapter 80 Section 51 Laws 2018**

SECTION 51. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE GAME AND FISH BOND RETIREMENT FUND.--One million dollars (\$1,000,000) is appropriated from the game and fish bond retirement fund to the department of game and fish for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to renovate and make improvements at hatcheries owned by the state game commission statewide.

## **Chapter 80 Section 52 Laws 2018**

SECTION 52. PUBLIC REGULATION COMMISSION PROJECT--  
APPROPRIATION FROM THE FIRE PROTECTION FUND.--Notwithstanding the provisions of the Fire Protection Fund Law to the contrary, two million five hundred thousand dollars (\$2,500,000) is appropriated from the fire protection fund to the public regulation commission for expenditure in fiscal years 2018 through 2022, unless

otherwise provided in Section 2 of this act, to plan, design and construct a firefighter training burn building at the firefighter training academy in Socorro in Socorro county.

### **Chapter 80 Section 53 Laws 2018**

SECTION 53. CAPITAL PROGRAM FUND PROJECT--APPROPRIATION FROM THE CAPITOL BUILDINGS REPAIR FUND.--Four hundred fifty thousand dollars (\$450,000) is appropriated from the capitol buildings repair fund to the capital program fund for expenditure by the facilities management division of the general services department in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to plan, design, construct, renovate and improve the John F. Simms building in Santa Fe in Santa Fe county.

### **Chapter 80 Section 54 Laws 2018**

SECTION 54. CAPITAL PROGRAM FUND PROJECT--APPROPRIATION FROM THE CAPITOL BUILDINGS REPAIR FUND.--Seven hundred seventy thousand dollars (\$770,000) is appropriated from the capitol buildings repair fund to the capital program fund for expenditure by the facilities management division of the general services department in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to plan, design, construct, renovate, furnish and equip a new state police district office in Santa Fe in Santa Fe county.

### **Chapter 80 Section 55 Laws 2018**

SECTION 55. SUPREME COURT BUILDING COMMISSION PROJECT--APPROPRIATION FROM THE CAPITOL BUILDINGS REPAIR FUND.-- Notwithstanding the provisions of Section 15-3B-17 NMSA 1978 to the contrary, one hundred twenty-three thousand dollars (\$123,000) is appropriated from the capitol buildings repair fund to the supreme court building commission for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, to plan, design, construct and renovate facilities, including abatement and remediation of the exterior courtyard stucco, at the supreme court building in Santa Fe in Santa Fe county.

### **Chapter 80 Section 56 Laws 2018**

SECTION 56. DEPARTMENT OF GAME AND FISH PROJECT--APPROPRIATION FROM THE BIG GAME ENHANCEMENT ACCOUNT OF THE GAME PROTECTION FUND.--One million seven hundred fifty thousand dollars (\$1,750,000) is appropriated from the big game enhancement account of the game protection fund to the department of game and fish for expenditure in fiscal years 2018 through 2022, unless otherwise provided in Section 2 of this act, for fisheries renovation and wildlife and riparian habitat restoration and for improvements at properties owned by the state game commission statewide[, contingent on the department of game and fish not accepting the transfer of any property or assets of Mesilla valley bosque state park from the state parks division of the energy, minerals and natural resources

department in fiscal year 2018 or 2019 without prior authorization from the legislature].  
*LINE-ITEM VETO*

## **Chapter 80 Section 57 Laws 2018**

SECTION 57. ENVIRONMENTAL MITIGATION TRUST--CONTINGENT AUTHORIZATION--BUDGET INCREASE REQUEST FOR SCHOOL BUSES.--If, pursuant to the environmental mitigation trust agreement for state beneficiaries entered into pursuant to the partial consent decrees entered in In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), the trustee approves the expenditure of funds to allow the public education department to replace school-district-owned buses statewide that are used to transport students to and from school pursuant to the Public School Finance Act, the public education department is authorized to request budget increases for that purpose totaling eight million dollars (\$8,000,000) in fiscal years 2019 through 2022, if that amount is approved by the trustee, or any other amount that is authorized by the trustee for the same purpose.

## **Chapter 80 Section 58 Laws 2018**

SECTION 58. PROJECT SCOPE--EXPENDITURES.--If an appropriation for a project authorized in this act is not sufficient to complete all the purposes specified, the appropriation may be expended for any portion of the purposes specified in the appropriation. Expenditures shall not be made for purposes other than those specified in the appropriation.

## **Chapter 80 Section 59 Laws 2018**

SECTION 59. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in this act include one percent for the art in public places fund.

## **Chapter 80 Section 60 Laws 2018**

SECTION 60. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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HTRC/House Bill 306, w/ec, w/cc, partial veto

Approved March 7, 2018

**LAWS 2018, HOUSE JOINT RESOLUTION 9**

A JOINT RESOLUTION

RATIFYING AND APPROVING THE SALE BY THE GENERAL SERVICES DEPARTMENT OF 31 GAIL HARRIS STREET, LOCATED ON THE FORMER WALKER AIR FORCE BASE, ROSWELL, NEW MEXICO.

WHEREAS, Section 13-6-2 NMSA 1978 provides that a state agency may sell or otherwise dispose of real property by competitive sealed bid, public auction or negotiated sale to a private person or to other entities; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of real property belonging to a state agency for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to the ratification and approval by the state legislature prior to the sale, trade or lease becoming effective; and

WHEREAS, the real property and improvements at 31 Gail Harris street, more particularly described below, on the former Walker air force base in Roswell, New Mexico (the "property"), were transferred to the state by the federal government and, pursuant to a deed without warranty issued on May 2, 1980, the property vests in fee simple in the state, without consideration, if the property is continuously used for health and welfare purposes for a period of thirty years, which condition has been met; and

WHEREAS, the general services department holds the title to the property, but no longer has a use for it and proposes to sell it by competitive sealed bid, public auction or negotiation, which negotiation may begin with a request for proposals to purchase the property; and

WHEREAS, the property is described as follows:

BEING a tract of land lying and being situated in Section 33, Township 11 South, Range 24 East, N.M.P.M., and being more particularly described as follows:

BEGINNING at a point from which the NW corner of Section 33 bears N 151 23' 21" W a distance of 927.23 feet;

THENCE S 891 42' 22" E a distance of 1076.15 feet;

THENCE S 01 13' 38" W a distance of 524.94 feet;

THENCE S 891 52' 22" E a distance of 61.22 feet;

THENCE S 01 16' 38" W a distance of 142.74 feet;

THENCE N 891 34' 22" W a distance of 1138.10 feet;

THENCE N 01 04' 51" E a distance of 664.85 feet to the point of beginning containing 16.06 acres, more or less, together with the Buildings described in Schedule "A" attached to the aforesaid Correction Deed; and

WHEREAS, the appraised value of the property is two hundred twenty-five thousand dollars (\$225,000), and the property shall not be sold for less than the appraised value;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the sale of the property as described above be hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the general services department.

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House Joint Resolution 9

## **LAWS 2018, HOUSE JOINT RESOLUTION 13**

### A JOINT RESOLUTION

GRANTING EXCLUSIVE LEGISLATIVE JURISDICTION TO THE UNITED STATES OVER CERTAIN LANDS LOCATED IN BERNALILLO COUNTY.

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

SECTION 1. Pursuant to the provisions of Section 19-2-2 NMSA 1978, and in reference to the notice received by the legislature from the governor, exclusive legislative jurisdiction is granted to the United States for real property now owned by the United States in Bernalillo county, New Mexico, described as the areas on Kirtland air force base known as:

- A. Maxwell housing;
- B. Pershing housing-commissary-Gibson gate; and
- C. the New Mexico air national guard.

SECTION 2. As used in Section 1 of this resolution, "exclusive legislative jurisdiction" means the vesting in the United States of all the rights accorded a sovereign with the broad qualification that such authority is held over matters, including criminal laws, public powers and tax laws to the extent that those rights do not contravene Section 19-2-3 NMSA 1978. It is the right of the federal government to

legislate with respect to such land and persons present or residing on it, subject only to the United States and state constitutional constraints.

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House Joint Resolution 13

## **2018 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, 1<sup>st</sup> Congressional District - Albuquerque  
Steve Pearce, Republican, 2<sup>nd</sup> Congressional District - Hobbs  
Ben R. Lujan, Democrat, 3<sup>rd</sup> Congressional District - Santa Fe

**STATE OFFICIALS**

|                                  |  |
|----------------------------------|--|
| Susana Martinez, Republican      | Governor                                   |
| John A. Sanchez, Republican      | Lieutenant Governor                        |
| Maggie Toulouse Oliver, Democrat | Secretary of State                         |
| Wayne Johnson, Republican        | State Auditor                              |
| Tim Eichenberg, Democrat         | State Treasurer                            |
| Hector H. Balderas, Democrat     | Attorney General                           |
| Aubrey Dum, Republican           | Commissioner of Public Lands               |
| Cynthia B. Hall, 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. Lovejoy, Democrat       | Public Regulation Commissioner, District 4 |
| Sandy R. Jones, Democrat         | Public Regulation Commissioner, District 5 |

**JUSTICES OF THE SUPREME COURT**

Judith K. Nakamura, Chief Justice  
Edward L. Chavez  
Charles W. Daniels  
Petra Jimenez Maes  
Barbara J. Vigil

**JUDGES OF THE COURT OF APPEALS**

Linda M. Vanzi, Chief Judge  
Henry M. Bohnhoff  
Stephen G. French  
Daniel J. Gallegos  
J. Miles Hanisee  
Emil J. Kiehne  
Jonathan B. Sutin  
Julie J. Vargas  
Michael E. Vigil  
M. Monica Zamora

**DISTRICT COURTS  
DISTRICT JUDGES**

**FIRST JUDICIAL DISTRICT  
Santa Fe, Los Alamos & Rio Arriba Counties**

|          |      |                        |          |
|----------|------|------------------------|----------|
| Division | I    | Francis J. Mathew      | Santa Fe |
| Division | II   | Gregory S. Shaffer     | Santa Fe |
| Division | III  | Raymond Z. Ortiz       | Santa Fe |
| Division | IV   | Sylvia F. LaMar        | Santa Fe |
| Division | V    | Jennifer L. 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    | Cindy Leos             | 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 Hart             | Albuquerque |
| Division | XXII  | Deborah Davis Walker   | Albuquerque |
| Division | XXIII | Shannon Bacon          | Albuquerque |
| Division | XXIV  | Debra Ramirez          | Albuquerque |
| Division | XXV   | Jane Levy              | Albuquerque |
| Division | XXVI  | Charles W. Brown       | Albuquerque |
| Division | XXVII | Victor S. Lopez        | Albuquerque |

**THIRD JUDICIAL DISTRICT  
Doña Ana County**

|          |      |                     |            |
|----------|------|---------------------|------------|
| Division | I    | Manuel I. Arrieta   | Las Cruces |
| Division | II   | Marci E. Beyer      | Las Cruces |
| Division | III  | Conrad Perea        | Las Cruces |
| Division | IV   | Mary W. Rosner      | Las Cruces |
| Division | V    | Lisa C. Schultz     | Las Cruces |
| Division | VI   | James T. Martin     | Las Cruces |
| Division | VII  | Douglas R. Driggers | Las Cruces |
| Division | VIII | Fernando R. Macias  | 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    | Dustin K. Hunter        | Chaves    |
| Division | XI   | Lee A. Kirksey          | Lea       |

**SIXTH JUDICIAL DISTRICT**  
**Grant, Hidalgo & Luna Counties**

|          |     |                        |             |
|----------|-----|------------------------|-------------|
| Division | I   | Timothy L. Aldrich     | Silver City |
| Division | II  | Jennifer Ellen DeLaney | Deming      |
| Division | III | J. C. Robinson         | Silver City |
| Division | IV  | Jarod K. Hofacket      | Deming      |

**SEVENTH JUDICIAL DISTRICT**  
**Catron, Sierra, Socorro & Torrance Counties**

|          |     |                     |          |
|----------|-----|---------------------|----------|
| Division | I   | Mercedes C. Murphy  | Socorro  |
| Division | II  | Matthew G. Reynolds | Sierra   |
| Division | III | Shannon Murdock     | Torrance |

**EIGHTH JUDICIAL DISTRICT**  
**Colfax, Union & Taos Counties**

|          |     |                 |       |
|----------|-----|-----------------|-------|
| Division | I   | Emilio Chavez   | Raton |
| Division | II  | Sarah C. Backus | Taos  |
| Division | III | Jeff F. McElroy | Taos  |

**NINTH JUDICIAL DISTRICT**  
**Curry & Roosevelt Counties**

|          |     |                     |                  |
|----------|-----|---------------------|------------------|
| Division | I   | Matthew E. Chandler | Clovis           |
| Division | II  | Drew D. Tatum       | Clovis           |
| Division | III | Fred Van Soelen     | Clovis, Portales |
| Division | IV  | Donna J. Mowrer     | Clovis, Portales |
| Division | V   | David P. Reeb       | Portales         |

**TENTH JUDICIAL DISTRICT**  
**Quay, DeBaca, & Harding Counties**

|          |   |                         |           |
|----------|---|-------------------------|-----------|
| Division | I | Albert J. Mitchell, Jr. | Tucumcari |
|----------|---|-------------------------|-----------|

**ELEVENTH JUDICIAL DISTRICT  
McKinley & San Juan Counties**

|          |      |                       |            |
|----------|------|-----------------------|------------|
| Division | I    | Bradford J. Dalley    | Aztec      |
| Division | II   | Louis E. DePauli, Jr. | Gallup     |
| Division | III  | Sarah V. Weaver       | Farmington |
| Division | IV   | John Arthur Dean, Jr. | Aztec      |
| Division | V    | Lyndy D. Bennett      | Gallup     |
| Division | VI   | Daylene A. Marsh      | Farmington |
| Division | VII  | Robert A. Aragon      | Gallup     |
| Division | VIII | Karen L. Townsend     | Aztec      |

**TWELFTH JUDICIAL DISTRICT  
Lincoln & Otero Counties**

|          |     |                     |            |
|----------|-----|---------------------|------------|
| Division | I   | Steven Blankinship  | Alamogordo |
| Division | II  | James Waylon Counts | Alamogordo |
| Division | III | Daniel A. Bryant    | Carrizozo  |
| Division | IV  | Angie K. Schneider  | Alamogordo |

**THIRTEENTH JUDICIAL DISTRICT  
Cibola, Sandoval & Valencia Counties**

|          |     |                        |            |
|----------|-----|------------------------|------------|
| Division | I   | James Lawrence Sanchez | Los Lunas  |
| Division | II  | George P. Eichwald     | Bernalillo |
| Division | III | Allen R. Smith         | Los Lunas  |
| Division | IV  | Pedro Rael             | Grants     |
| Division | V   | Louis P. McDonald      | Bernalillo |
| Division | VI  | Cindy M. Mercer        | Los Lunas  |
| Division | VII | John F. Davis          | Bernalillo |
| Division | VII | Cheryl H. Johnston     | Bernalillo |

**DISTRICT ATTORNEYS**

|                              |                            |                                    |
|------------------------------|----------------------------|------------------------------------|
| First Judicial District      | Marco P. Serna             | Santa Fe, Rio Arriba & Los Alamos  |
| Second Judicial District     | Raul Torrez                | Bernalillo                         |
| Third Judicial District      | Mark D'Antonio             | Doña Ana                           |
| Fourth Judicial District     | Richard D. Flores          | San Miguel, Guadalupe & Mora       |
| Fifth Judicial District      | Dianna Luce                | Chaves, Eddy & Lea                 |
| Sixth Judicial District      | Francesca Martinez-Estevez | Grant, Luna & Hidalgo              |
| Seventh Judicial District    | Clint H. Wellborn          | Catron, Sierra, Socorro & Torrance |
| Eighth Judicial District     | Donald A. Gallegos         | Taos, Colfax & Union               |
| Ninth Judicial District      | Andrea R. Reeb             | Curry & Roosevelt                  |
| Tenth Judicial District      | Timothy L. Rose            | Quay, Harding & DeBaca             |
| Eleventh Judicial District   | Robert "Rick" P. Tedrow    | Division 1: San Juan               |
|                              | Paula Pakkala              | Division 2: McKinley               |
| Twelfth Judicial District    | John P. Sugg               | Otero & Lincoln                    |
| Thirteenth Judicial District | Lemuel L. Martinez         | Sandoval, Valencia & Cibola        |

**STATE REPRESENTATIVES SERVING IN THE FIFTY-THIRD LEGISLATURE  
STATE OF NEW MEXICO  
SECOND SESSION  
CONVENED JANUARY 16, 2018**

| <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                            | D. Wonda Johnson             | Church Rock              |
| 6               | Cibola & McKinley                              | Eliseo Lee Alcon             | Milan                    |
| 7               | Valencia                                       | Kelly K. Fajardo             | Los Lunas                |
| 8               | Valencia                                       | Alonzo Baldonado             | Los Lunas                |
| 9               | McKinley & San Juan                            | Patricia A. Lundstrom        | Gallup                   |
| 10              | Bernalillo                                     | G. Andres Romero             | Albuquerque              |
| 11              | Bernalillo                                     | Javier. I. Martinez          | Albuquerque              |
| 12              | Bernalillo                                     | Patricio R. Ruiloba          | Albuquerque              |
| 13              | Bernalillo                                     | Patricia A. Roybal Caballero | Albuquerque              |
| 14              | Bernalillo                                     | Miguel P. Garcia             | Albuquerque              |
| 15              | Bernalillo                                     | 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                                     | Debra M. Sariñana            | Albuquerque              |
| 22              | Bernalillo, Sandoval & Santa Fe                | James E. Smith               | Sandia Park              |
| 23              | Bernalillo & Sandoval                          | Daymon Ely                   | Corrales                 |
| 24              | Bernalillo                                     | Elizabeth "Liz" Thomson      | 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                          | Candie G. Sweetser           | Deming                   |
| 33              | Doña Ana                                       | Bill McCamley                | Mesilla Park             |
| 34              | Doña Ana                                       | Bealquin Bill Gomez          | La Mesa                  |
| 35              | Doña Ana                                       | Angelica Rubio               | Las Cruces               |
| 36              | Doña Ana                                       | Nathan P. Small              | Las Cruces               |
| 37              | Doña Ana                                       | Joanne J. Ferrary            | Las Cruces               |
| 38              | Grant, Hidalgo & Sierra                        | Rebecca Dow                  | Truth or<br>Consequences |
| 39              | Doña Ana, Grant & Sierra                       | Rudolpho "Rudy" S. Martinez  | Bayard                   |
| 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  | Rancho de Taos           |
| 43              | Los Alamos, Rio Arriba, Sandoval<br>& 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                 |

**STATE SENATORS SERVING IN THE FIFTY-THIRD LEGISLATURE  
STATE OF NEW MEXICO  
SECOND SESSION  
CONVENED JANUARY 16, 2018**

| <u>District</u> | <u>County</u>   | <u>Name</u>               | <u>City</u>  |
|-----------------|---|---------------------------|--------------|
| 1               | San Juan  | William E. Sharer         | Farmington   |
| 2               | San Juan  | Steven P. Neville         | Aztec        |
| 3               | McKinley & San Juan   | John Pinto                | Gallup       |
| 4               | Cibola, McKinley & San Juan                                       | George K. Muñoz           | Gallup       |
| 5               | Los Alamos, Rio Arriba, Sandoval<br>& 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,<br>San Miguel & Taos      | Pete Campos               | Las Vegas    |
| 9               | Bernalillo & Sandoval   | John M. Sapien            | Corrales     |
| 10              | Bernalillo & Sandoval   | Candance Gould            | Albuquerque  |
| 11              | Bernalillo  | Linda M. Lopez            | Albuquerque  |
| 12              | Bernalillo  | Gerald Ortiz y Pino       | Albuquerque  |
| 13              | Bernalillo  | Bill B. O'Neill           | Albuquerque  |
| 14              | Bernalillo  | Michael Padilla           | Albuquerque  |
| 15              | Bernalillo  | Daniel A. Ivey-Soto       | Albuquerque  |
| 16              | Bernalillo  | Cisco McSorley            | Albuquerque  |
| 17              | Bernalillo  | Mimi Stewart              | Albuquerque  |
| 18              | Bernalillo  | Bill G. Tallman           | Albuquerque  |
| 19              | Bernalillo, Sandoval, Santa Fe & Torrance                         | James P. White            | Albuquerque  |
| 20              | Bernalillo  | William H. Payne          | Albuquerque  |
| 21              | Bernalillo  | Mark Moores               | Albuquerque  |
| 22              | Bernalillo, McKinley, Rio Arriba, San Juan,<br>& Sandoval         | Benny Shendo, Jr.         | Jemez Pueblo |
| 23              | Bernalillo  | Sander Rue                | Albuquerque  |
| 24              | Santa Fe  | Nancy Rodriguez           | Santa Fe     |
| 25              | Santa Fe  | Peter Wirth               | Santa Fe     |
| 26              | Bernalillo  | Jacob R. Candelaria       | Albuquerque  |
| 27              | Chaves, Curry, DeBaca, Lea & Roosevelt                            | Stuart Ingle              | Portales     |
| 28              | Catron, Grant & Socorro   | Howie C. Morales          | Silver City  |
| 29              | Bernalillo & Valencia   | Gregory A. Baca           | Belen        |
| 30              | Cibola, McKinley, Socorro & Valencia                              | Clemente Sanchez          | Grants       |
| 31              | Doña Ana  | Joseph Cervantes          | Las Cruces   |
| 32              | Chaves, Eddy & Otero  | Cliff R. Pirtle           | Roswell      |
| 33              | Chaves, Lincoln & Otero   | William F. Burt           | Alamogordo   |
| 34              | Doña Ana, Eddy & Otero  | Ron Griggs                | Alamogordo   |
| 35              | Doña Ana, Hidalgo, Luna & Sierra                                  | John Arthur Smith         | Deming       |
| 36              | Doña Ana  | Jeff Steinborn            | Las Cruces   |
| 37              | Doña Ana  | William P. Soules         | Las Cruces   |
| 38              | Doña Ana  | Mary Kay Papen            | Las Cruces   |
| 39              | Bernalillo, Lincoln, San Miguel, Santa Fe,<br>Torrance & Valencia | Elizabeth "Liz" Stefanics | Cerrillos    |
| 40              | Sandoval  | Craig W. Brandt           | Rio Rancho   |
| 41              | Eddy & Lea  | Carroll H. Leavell        | Jal          |
| 42              | Chaves, Eddy & Lea  | Gay G. Kernan             | Hobbs        |

**STATE REPRESENTATIVES (continued)**

| <u>District</u> | <u>County</u>  | <u>Name</u>         | <u>City</u>   |
|-----------------|--|---------------------|---------------|
| 48              | Santa Fe   | Linda M. Trujillo   | Santa Fe      |
| 49              | Catron, Socorro & Valencia                                     | Gail Armstrong      | Magdalena     |
| 50              | Bernalillo, Santa Fe, Torrance & Valencia                      | Matthew McQueen     | Santa Fe      |
| 51              | Otero  | Yvette Herrell      | Alamogordo    |
| 52              | Doña Ana   | Doreen Y. Gallegos  | Las Cruces    |
| 53              | Doña Ana & Otero   | Rick Little         | Chaparral     |
| 54              | Chaves, Eddy & Otero   | James G. Townsend   | Artesia       |
| 55              | Eddy   | Cathryn N. Brown    | Carlsbad      |
| 56              | Lincoln & Otero  | Zachary J. Cook     | Ruidoso       |
| 57              | Sandoval   | Jason C. Harper     | Rio Rancho    |
| 58              | Chaves   | Candy Spence Ezzell | Roswell       |
| 59              | Chaves & Lincoln   | Greg Nibert         | Roswell       |
| 60              | Sandoval   | Tim D. Lewis        | Rio Rancho    |
| 61              | Lea  | David M. Gallegos   | Eunice        |
| 62              | Lea  | Larry R. Scott      | Hobbs         |
| 63              | Curry, DeBaca, Guadalupe, Roosevelt<br>& San Miguel            | George Dodge, Jr.   | Santa Rosa    |
| 64              | Curry  | Randal S. Crowder   | Clovis        |
| 65              | Rio Arriba, San Juan & Sandoval                                | Derrick J. Lente    | Sandia Pueblo |
| 66              | Chaves, Lea & Roosevelt  | Bob Wooley          | Roswell       |
| 67              | Colfax, Curry, Harding, Quay, Roosevelt,<br>San Miguel & Union | Dennis J. Roch      | Logan         |
| 68              | Bernalillo   | Monica Youngblood   | Albuquerque   |
| 69              | Bernalillo, Cibola, McKinley, San Juan<br>Socorro & Valencia   | Harry Garcia        | Grants        |
| 70              | San Miguel, Santa Fe & Torrance                                | Tomás E. Salazar    | Las Vegas     |