

LAWS 2010, CONSTITUTIONAL AMENDMENT 2

A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 10, SECTION 2 OF THE CONSTITUTION OF NEW MEXICO TO ALLOW COUNTY OFFICIALS TO SERVE THREE CONSECUTIVE TERMS INSTEAD OF TWO.

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

Constitutional Amendment 2 Section 1 Laws 2010

Section 1. It is proposed to amend Article 10, Section 2 of the constitution of New Mexico to read:

"A. In every county all elected officials shall serve four-year terms, subject to the provisions of Subsection B of this section.

B. In those counties that prior to 1992 have not had four-year terms for elected officials, the assessor, sheriff and probate judge shall be elected to four-year terms and the treasurer and clerk shall be elected to two-year terms in the first election following the adoption of this amendment. In subsequent elections, the treasurer and clerk shall be elected to four-year terms.

C. To provide for staggered county commission terms, in counties with three county commissioners, the terms of no more than two commissioners shall expire in the same year; and in counties with five county commissioners, the terms of no more than three commissioners shall expire in the same year.

D. All county officers, after having served three consecutive four-year terms, shall be ineligible to hold any county office for two years thereafter."

Constitutional Amendment 2 Section 2 Laws 2010

Section 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

Senate Joint Resolution 5

LAWS 2010, CONSTITUTIONAL AMENDMENT 3

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 7, SECTION 1 OF THE CONSTITUTION OF NEW MEXICO TO MODERNIZE LANGUAGE ON QUALIFIED ELECTORS BY REMOVING LANGUAGE DENIGRATING PERSONS WITH DEVELOPMENTAL DISABILITIES, ADOPTING FEDERAL REQUIREMENTS TO VOTE, DEFINING MENTAL INCAPACITY FOR VOTING PURPOSES AND RESTRICTING FELONS FROM VOTING EXCEPT AS RESTORED BY STATUTE.

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

Constitutional Amendment 3 Section 1 Laws 2010

Section 1. It is proposed to amend Article 7, Section 1 of the constitution of New Mexico to read:

"Every person who is a qualified elector pursuant to the constitution and laws of the United States and a citizen thereof shall be qualified to vote in all elections in New Mexico, subject to residency and registration requirements provided by law, except as restricted by statute either by reason of criminal conviction for a felony or by reason of mental incapacity, being limited only to those persons who are unable to mark their ballot and who are concurrently also unable to communicate their voting preference. The legislature may enact laws providing for absentee voting by qualified electors. All school elections shall be held at different times from other elections.

The legislature shall have the power to require the registration of the qualified electors as a requisite for voting and shall regulate the manner, time and places of voting. The legislature shall enact such laws as will secure the secrecy of the ballot and the purity of elections and guard against the abuse of elective franchise. Not more than two members of the board of registration and not more than two judges of election shall belong to the same political party at the time of their appointment."

Constitutional Amendment 3 Section 2 Laws 2010

Section 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

Senate Joint Resolution 6

LAWS 2010, CONSTITUTIONAL AMENDMENT 4

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 8 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE A PROPERTY TAX EXEMPTION FOR PROPERTY OF A VETERANS' ORGANIZATION CHARTERED BY THE UNITED STATES CONGRESS.

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

Constitutional Amendment 4 Section 1 Laws 2010

Section 1. It is proposed to amend Article 8 of the constitution of New Mexico by adding a new section to read:

"The legislature shall exempt from taxation the property of a veterans' organization chartered by the United States congress and used primarily for veterans and their families. The burden of proving eligibility for the exemption in this section is on the person claiming the exemption."

Constitutional Amendment 4 Section 2 Laws 2010

Section 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

Senate Joint Resolution 7

LAWS 2010, CONSTITUTIONAL AMENDMENT 5

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 4, SECTION 28 OF THE CONSTITUTION OF NEW MEXICO TO ALLOW THE APPOINTMENT OF CERTAIN FORMER MEMBERS OF THE LEGISLATURE TO CIVIL OFFICES IN THE STATE IN A LIMITED SITUATION.

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

Constitutional Amendment 5 Section 1 Laws 2010

Section 1. It is proposed to amend Article 4, Section 28 of the constitution of New Mexico to read:

"A. Except as provided in Subsection B of this section, a member of the legislature shall not, during the term for which the member was elected, be appointed to

any civil office in the state, nor shall the member within one year thereafter be appointed to any civil office created, or the emoluments of which were increased during such term.

B. A member of the legislature may be appointed to a civil office during the term of the legislature for which the member was elected if:

(1) the member resigns from the legislature prior to the appointment; and

(2) during that term, prior to the member's resignation, the civil office to which the appointment is to be made was not created or the emoluments of which were not increased.

C. A member of the legislature shall not, during the term for which the member was elected, nor within one year thereafter, be interested directly or indirectly in any contract with the state or any municipality thereof, which was authorized by any law passed during such term."

Constitutional Amendment 5 Section 2 Laws 2010

Section 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

House Joint Resolution 3

LAWS 2010, CHAPTER 1

AN ACT

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FORTY-NINTH LEGISLATURE, SECOND SESSION, 2010 AND FOR OTHER LEGISLATIVE EXPENSES, INCLUDING THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, THE SENATE RULES COMMITTEE, THE HOUSE CHIEF CLERK'S OFFICE AND THE SENATE CHIEF CLERK'S OFFICE; DECLARING AN EMERGENCY.

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

Chapter 1 Section 1 Laws 2010

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 forty-ninth legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, four million eight hundred seventy-eight thousand one hundred dollars (\$4,878,100) or so much thereof as may be necessary for such purposes.

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

- (1) per diem for senators . . . \$ 200,340;
- (2) per diem for members of the house of representatives
..... \$ 333,900;
- (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
. \$ 6,186;
- (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. \$ 9,300;
- (5) salaries and employee benefits of senate employees
..... \$ 1,387,450;
- (6) salaries and employee benefits of house of representatives employees \$ 1,410,300;
- (7) for expense of the senate not itemized above, three hundred sixty-three thousand one hundred twenty-four dollars (\$363,124). No part of this item may be transferred to salaries or employee benefits;
- (8) for expense of the house of representatives not itemized above, four hundred forty thousand eight hundred dollars (\$440,800). 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, seven hundred twenty-six thousand seven hundred dollars (\$726,700) 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 forty-ninth legislature, the chair of the committees' committee of the senate, subject to the approval of the committee, and the speaker of the house of representatives are authorized and directed to provide for the printing of all bills, resolutions, joint resolutions, memorials and joint memorials introduced in the senate or house, the printing of the weekly bill locator and the printing of all necessary stationery required for use in the respective houses. They are further directed to provide for the purchase of all supplies necessary for use in the respective houses within the appropriation provided. The orders for printing, stationery and supplies shall be approved by the chair of the committees' committee in the senate or by the speaker of the house.

Chapter 1 Section 2 Laws 2010

Section 2. BILLS AND OTHER PRINTED MATERIALS.--

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

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

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

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

B. Any person not listed in Subsection A of this section may secure a complete file of the bills, resolutions, joint resolutions, memorials and joint memorials of the legislature by depositing with the legislative council service the amount of three hundred seventy-five dollars (\$375), 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 each member of the respective houses, shall be supplied by the legislative council service at a charge of one hundred twenty-five dollars (\$125) for the entire session.

Chapter 1 Section 3 Laws 2010

Section 3. LEGISLATIVE COUNCIL SERVICE.--There is appropriated from the general fund to the legislative council service for fiscal year 2011 unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service, the following:

A. Personal Services & Employee Benefits	\$ 4,336,200
Contractual Services	210,000
Other Costs	1,070,200
Total	\$ 5,616,400;

B. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, staff and other necessary expenses for other interim committees and for other necessary legislative expenses for fiscal year 2011, eight hundred sixty-one thousand two hundred dollars (\$861,200); [~~provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;~~] *LINE-ITEM VETO*

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

D. for a statewide legislative intern program, forty-two thousand six hundred dollars (\$42,600).

Chapter 1 Section 4 Laws 2010

Section 4. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee for fiscal year 2011, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 3,547,900
Contractual Services	175,000
Other Costs	314,500
Total	\$ 4,037,400.

Chapter 1 Section 5 Laws 2010

Section 5. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for fiscal year 2011, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 1,107,500
Contractual Services	23,800
Other Costs	107,800
Total	\$ 1,239,100.

Chapter 1 Section 6 Laws 2010

Section 6. SENATE RULES COMMITTEE.--There is appropriated from the general fund to the legislative council service for the interim duties of the senate rules committee, twenty thousand five hundred dollars (\$20,500) for fiscal year 2011.

Chapter 1 Section 7 Laws 2010

Section 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2011 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	\$ 913,850
Contractual Services	131,600
Other Costs	38,950
Total	\$ 1,084,400.

Chapter 1 Section 8 Laws 2010

Section 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2011 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	\$ 919,200
Contractual Services	187,550
Other Costs	29,550
Total	\$ 1,136,300.

Chapter 1 Section 9 Laws 2010

Section 9. LEGISLATIVE INFORMATION SYSTEM.--There is appropriated from the general fund to the legislative council service for the legislative information system

five hundred thirty-three thousand one hundred dollars (\$533,100) for expenditure during fiscal years 2010 and 2011.

Chapter 1 Section 10 Laws 2010

Section 10. REDISTRICTING--TECHNICAL AND LEGAL SUPPORT.--There is appropriated from the legislative cash balances to the legislative council service to provide redistricting technical and legal support and to perform such other functions as are necessary to prepare for redistricting in 2011, two hundred fifty thousand dollars (\$250,000) for expenditure during fiscal years 2011 and 2012.

Chapter 1 Section 11 Laws 2010

Section 11. EXTENSIBLE MARKUP LANGUAGE DATABASE--

SELF-PUBLICATION.--There is appropriated from the legislative cash balances to the legislative council service for the legislative share of the continued development required for the extensible markup language database, extensible markup language tagging and its use for legislative document systems and an integrated tagged database of the session laws and for the costs associated in collaborating with the New Mexico compilation commission on the ongoing development and expanding partnership role 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 2010 and 2011.

Chapter 1 Section 12 Laws 2010

~~[Section 12. CATEGORY TRANSFER.--Amounts set out in Sections 3, 4, 5, 7 and 8 of this act are provided for informational purposes only and may be freely transferred among categories.]~~*LINE-ITEM VETO*

Chapter 1 Section 13 Laws 2010

Section 13. PERFORMANCE MEASURES.--Each legislative agency shall adhere to the performance measures specified in its strategic plan and shall make reports as required in that plan.

Chapter 1 Section 14 Laws 2010

Section 14. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

Approved January 28, 2010

LAWS 2010, CHAPTER 2

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ALLOWING THE STATE EQUALIZATION GUARANTEE DISTRIBUTION PROGRAM UNIT VALUE TO BE SET AT A DATE LATER THAN JANUARY 31, 2010; PROVIDING FOR ADJUSTMENT IN ANTICIPATION OF FEDERAL STATE FISCAL STABILIZATION FUNDING; DECLARING AN EMERGENCY.

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

Chapter 2 Section 1 Laws 2010

Section 1. TEMPORARY PROVISION--STATE EQUALIZATION GUARANTEE DISTRIBUTION PROGRAM UNIT VALUE--ADJUSTMENT DATE CHANGED.-- Notwithstanding the provisions of the General Appropriation Act of 2009, the secretary of public education may adjust the 2009-2010 school year program unit value at a date later than January 31, 2010. The secretary may adjust the unit value after receipt of approval to use state fiscal stabilization funds for a portion of the state equalization guarantee distribution.

Chapter 2 Section 2 Laws 2010

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

House Bill 64, w/ec

Approved February 5, 2010

LAWS 2010, CHAPTER 3

AN ACT

RELATING TO COURTS; CREATING ADDITIONAL JUDGESHIPS IN THE FIRST JUDICIAL DISTRICT AND IN THE DONA ANA MAGISTRATE DISTRICT; DECLARING AN EMERGENCY.

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

Chapter 3 Section 1 Laws 2010

Section 1. Section 34-6-4 NMSA 1978 (being Laws 1968, Chapter 69, Section 7, as amended) is amended to read:

"34-6-4. JUDGES--FIRST JUDICIAL DISTRICT.--There shall be eight district judges in the first judicial district."

Chapter 3 Section 2 Laws 2010

Section 2. Section 35-1-10 NMSA 1978 (being Laws 1968, Chapter 62, Section 12, as amended) is amended to read:

"35-1-10. MAGISTRATE COURT--DONA ANA DISTRICT.--There shall be six magistrates in Dona Ana magistrate district. Divisions 1, 2, 3, 4, 5 and 6 shall operate as a single court in Las Cruces and shall rotate riding circuit to Anthony and Hatch on a regularly scheduled basis."

Chapter 3 Section 3 Laws 2010

Section 3. TEMPORARY PROVISION--DISTRICT JUDGE--APPOINTMENT.--The additional district judgeship provided for in this 2010 act shall be filled by appointment by the governor pursuant to the provisions of Article 6 of the constitution of New Mexico.

Chapter 3 Section 4 Laws 2010

Section 4. TEMPORARY PROVISION--MAGISTRATE COURT--ELECTION.--

A. The office of magistrate in Dona Ana magistrate district, division 6, shall be filled by the general election in 2010. The first full term of office of the elected magistrate shall begin on January 1, 2011.

B. If this act is passed by less than a two-thirds vote of either house of the legislature, the office of magistrate in Dona Ana magistrate district, division 6, shall be filled by appointment by the governor on or after the effective date of this act. The appointed magistrate shall serve until succeeded by a magistrate elected at the general election in 2012.

Chapter 3 Section 5 Laws 2010

Section 5. CONTINGENT EFFECTIVE DATE.--If this act is passed by less than a two-thirds vote of either house of the legislature, the effective date of the provisions of this act is January 1, 2011.

Chapter 3 Section 6 Laws 2010

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

Senate Bill 6, w/ec

Approved February 23, 2010

LAWS 2010, CHAPTER 4

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING A SECTION OF THE PUBLIC HEALTH CODE TO PERMIT THE DEPARTMENT OF HEALTH TO PROVIDE PARTNER SERVICES TO INDIVIDUALS WHOM IT IDENTIFIES TO BE AT RISK OF HUMAN IMMUNODEFICIENCY VIRUS INFECTION DUE TO CONTACT WITH AN INFECTED INDIVIDUAL.

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

Chapter 4 Section 1 Laws 2010

Section 1. Section 24-2B-6 NMSA 1978 (being Laws 1989, Chapter 227, Section 6, as amended) is amended to read:

"24-2B-6. CONFIDENTIALITY.--

A. No person or the person's agents or employees who require or administer the test shall disclose the identity of any person upon whom a test is performed or the result of such a test in a manner that permits identification of the subject of the test, except to the following persons:

(1) the subject of the test or the subject's legally authorized representative, guardian or legal custodian;

(2) any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

(3) an authorized agent, a credentialed or privileged physician or employee of a health facility or health care provider if the health care facility or health care provider itself is authorized to obtain the test results, the agent or employee

provides patient care or handles or processes specimens of body fluids or tissues and the agent or employee has a need to know such information;

(4) the department of health in accordance with reporting requirements established by regulation;

(5) the department of health for the purpose of providing partner services;

(6) a health facility or health care provider that procures, processes, distributes or uses:

(a) a human body part from a deceased person, with respect to medical information regarding that person;

(b) semen provided prior to the effective date of the Human Immunodeficiency Virus Test Act for the purpose of artificial insemination;

(c) blood or blood products for transfusion or injection; or

(d) human body parts for transplant with respect to medical information regarding the donor or recipient;

(7) health facility staff committees or accreditation or oversight review organizations that are conducting program monitoring, program evaluation or service reviews, so long as any identity remains confidential;

(8) authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information; and

(9) for purposes of application or reapplication for insurance coverage, an insurer or reinsurer upon whose request the test was performed.

B. For the purposes of this section:

(1) "partner services" means a protocol that the department of health establishes by regulation similar to those protocols and regulations for other reportable sexually transmitted diseases for contacting individuals whom it identifies to be at risk of human immunodeficiency virus infection due to contact with an individual whom it has identified, through reporting made pursuant to Paragraph (4) of Subsection A of this section, as having been infected with human immunodeficiency virus; and

(2) "test" means a procedure that definitively diagnoses the presence of human immunodeficiency virus infection, either through the detection of the virus itself or the detection of antibodies against the virus."

Senate Bill 12, aa

Approved February 26, 2010

LAWS 2010, CHAPTER 5

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; INCREASING THE FEE CHARGED TO DEFRAY THE COSTS OF CHEMICAL AND OTHER TESTS.

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

Chapter 5 Section 1 Laws 2010

Section 1. Section 31-12-7 NMSA 1978 (being Laws 1981, Chapter 367, Section 1, as amended) is amended to read:

"31-12-7. MOTOR VEHICLES--INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--FEE UPON CONVICTION.--Notwithstanding the provisions of Section 66-8-102 NMSA 1978 or any municipal ordinance that prohibits driving while under the influence of intoxicating liquor or drugs, a person convicted of a violation of Section 66-8-102 NMSA 1978 or a violation of a municipal ordinance that prohibits driving while under the influence of intoxicating liquor or drugs shall be assessed by the court, in addition to any other fee or fine:

A. a fee of eighty-five dollars (\$85.00) to defray the costs of chemical and other tests used to determine the influence of liquor or drugs; and

B. a fee of seventy-five dollars (\$75.00) to fund comprehensive community programs for the prevention of driving while under the influence of intoxicating liquor or drugs and for other traffic safety purposes."

Chapter 5 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 32

Approved February 26, 2010

LAWS 2010, CHAPTER 6

AN ACT

RELATING TO LAND GRANTS; REQUIRING NOTICE TO THE BOARDS OF TRUSTEES OF CERTAIN COMMUNITY LAND GRANTS BEFORE CONDUCTING BOUNDARY SURVEYS OF LANDS WITHIN OR BORDERING THE LAND GRANT; REQUIRING THE FILING OF PROOF OF NOTICE.

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

Chapter 6 Section 1 Laws 2010

Section 1. A new section of the Engineering and Surveying Practice Act is enacted to read:

"NOTICE OF BOUNDARY SURVEY--CERTAIN LAND GRANTS.--

A. If a boundary survey of property is conducted within or bordering the common lands of a community land grant governed and operating pursuant to Chapter 49, Article 6, 7, 8 or 10 NMSA 1978, the surveyor shall give written notice by certified mail to the board of trustees or commissioners of the affected land grant prior to recording the boundary survey or plat with the county clerk. The notice shall indicate where and when the boundary survey will be or was conducted.

B. The board of trustees or commissioners of a community land grant governed and operating pursuant to Chapter 49, Article 6, 7, 8 or 10 NMSA 1978 shall record with the county clerk of the county within which the land grant is located the address and contact information of the appropriate officer of the board or commission to which notice shall be given pursuant to Subsection A of this section. Any change in address or contact information shall be updated and recorded as soon as practicable to ensure that timely notice may be accomplished by certified mail.

C. A surveyor shall give proof of the notice required by Subsection A of this section by having the tracking number of the certified mailing and the address of the land grant as recorded with the county clerk acknowledged and recorded on the boundary survey or plat. A boundary survey or plat recorded pursuant to Section 61-23-28.2 NMSA 1978 without proof of the notice required by Subsection A of this section shall not be considered a valid filing or recording of the boundary survey or plat."

Approved February 26, 2010

LAWS 2010, CHAPTER 7

AN ACT

RELATING TO COURTS; CREATING THE MAGISTRATE COURTS OPERATIONS FUND TO PROVIDE FOR THE OPERATIONS OF THE MAGISTRATE COURTS; IMPOSING A FEE ON PENALTY ASSESSMENT MISDEMEANORS; TERMINATING THE FUND AND THE FEE IN FOUR YEARS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009; MAKING AN APPROPRIATION.

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

Chapter 7 Section 1 Laws 2010

Section 1. A new section of Chapter 35 NMSA 1978 is enacted to read:

"MAGISTRATE COURTS OPERATIONS FUND--CREATED--PURPOSE--TERMINATION OF FUND.--The "magistrate courts operations fund" is created in the state treasury for appropriation by the legislature for the operations of magistrate courts. The fund consists of magistrate courts operations fees collected pursuant to Section 66-8-116.3 NMSA 1978 and any appropriations, gifts, grants and donations. Income from the fund shall be credited to the fund. Money in the fund at the end of fiscal years 2010, 2011, 2012 and 2013 shall not revert to any other fund. Balances remaining in the fund at the end of fiscal year 2014 shall revert to the general fund, and the fund shall be dissolved on July 1, 2014."

Chapter 7 Section 2 Laws 2010

Section 2. Section 66-8-116.3 NMSA 1978 (being Laws 1989, Chapter 318, Section 35, Laws 1989, Chapter 319, Section 14 and also Laws 1989, Chapter 320, Section 5, as amended by Laws 2009, Chapter 244, Section 1 and by Laws 2009, Chapter 245, Section 5) is amended to read:

"66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--ADDITIONAL FEES.--In addition to the penalty assessment established for each penalty assessment misdemeanor, there shall be assessed:

A. in a county without a metropolitan court, twenty dollars (\$20.00) to help defray the costs of local government corrections;

B. a court automation fee of ten dollars (\$10.00);

C. a traffic safety fee of three dollars (\$3.00), which shall be credited to the traffic safety education and enforcement fund;

D. a judicial education fee of three dollars (\$3.00), which shall be credited to the judicial education fund;

E. a jury and witness fee of five dollars (\$5.00), which shall be credited to the jury and witness fee fund;

F. a juvenile adjudication fee of one dollar (\$1.00), which shall be credited to the juvenile adjudication fund;

G. a brain injury services fee of five dollars (\$5.00), which shall be credited to the brain injury services fund;

H. a court facilities fee as follows:

in a county with a metropolitan court \$24.00;

in any other county 10.00;

and

I. until May 31, 2014, a magistrate courts operations fee of four dollars (\$4.00), which shall be credited to the magistrate courts operations fund."

Chapter 7 Section 3 Laws 2010

Section 3. Section 66-8-119 NMSA 1978 (being Laws 1968, Chapter 62, Section 159, as amended) is amended to read:

"66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

A. The division shall remit all penalty assessment receipts, except receipts collected pursuant to Subsections A through I of Section 66-8-116.3 NMSA 1978, to the state treasurer for credit to the general fund.

B. The division shall remit all penalty assessment fee receipts collected pursuant to:

(1) Subsection A of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the local government corrections fund;

(2) Subsection B of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the court automation fund;

(3) Subsection C of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the traffic safety education and enforcement fund;

(4) Subsection D of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the judicial education fund;

(5) Subsection E of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the jury and witness fee fund;

(6) Subsection F of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the juvenile adjudication fund;

(7) Subsection G of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the brain injury services fund;

(8) Subsection H of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the court facilities fund; and

(9) Subsection I of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the magistrate courts operations fund."

Chapter 7 Section 4 Laws 2010

Section 4. DELAYED REPEAL.--Section 1 of this act is repealed effective July 1, 2014.

Senate Bill 226, aa

Approved February 26, 2010

LAWS 2010, CHAPTER 8

AN ACT

RELATING TO TORT CLAIMS; PROVIDING IMMUNITY FROM TORT LIABILITY FOR CERTAIN ENTITIES ENGAGING IN SPACE FLIGHT ACTIVITIES.

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

Chapter 8 Section 1 Laws 2010

Section 1. SHORT TITLE.--This act may be cited as the "Space Flight Informed Consent Act".

Chapter 8 Section 2 Laws 2010

Section 2. DEFINITIONS.--As used in the Space Flight Informed Consent Act:

A. "participant" means a space flight participant as that term is defined in 49 U.S.C. Section 70102;

B. "space flight activities" means launch services or reentry services as those terms are defined in 49 U.S.C. Section 70102; and

C. "space flight entity" means a public or private entity holding a United States federal aviation administration launch, reentry, operator or launch site license for space flight activities.

Chapter 8 Section 3 Laws 2010

Section 3. CIVIL IMMUNITY FOR SPACE FLIGHT ENTITIES.--

A. Except as provided in Subsection B of this section, a space flight entity is not liable for injury to or death of a participant resulting from the inherent risks of space flight activities so long as the warning contained in Section 4 of the Space Flight Informed Consent Act is distributed and signed as required. Except as provided in Subsection B of this section, a participant or participant's representative may not maintain an action against or recover from a space flight entity for the loss, damage or death of the participant resulting exclusively from any of the inherent risks of space flight activities.

B. Subsection A of this section does not prevent or limit the liability of a space flight entity if the space flight entity:

(1) commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant and that act or omission proximately causes injury, damage or death to the participant;

(2) has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the space flight activities and the danger proximately causes injury, damage or death to the participant;
or

(3) intentionally injures the participant.

C. The limitation on legal liability provided to a space flight entity by the Space Flight Informed Consent Act is in addition to any other limitation of legal liability otherwise provided by law.

Chapter 8 Section 4 Laws 2010

Section 4. WARNING AND ACKNOWLEDGMENT REQUIRED.--

A. A space flight entity providing space flight activities to a participant, whether the activities occur on or off the site of a facility capable of launching a suborbital flight, shall have each participant sign a warning statement. The warning statement shall contain, at a minimum, the following statement:

"WARNING AND ACKNOWLEDGMENT

I understand and acknowledge that under New Mexico law, there is no liability for injury to or death sustained by a participant in a space flight activity provided by a space flight entity if the injury or death results from the inherent risks of the space flight activity. Injuries caused by the inherent risks of space flight activities may include, among others, death, bodily injury, emotional injury or property damage. I assume all risk of participating in this space flight activity."

B. Failure to provide the warning statement requirements in this section to a participant shall prevent a space flight entity from invoking the immunity provided by this section with regard to that participant.

Chapter 8 Section 5 Laws 2010

Section 5. DELAYED REPEAL.--The Space Flight Informed Consent Act is repealed effective July 1, 2018.

SJC/Senate Bill 9

Approved March 1, 2010

LAWS 2010, CHAPTER 9

AN ACT

RELATING TO PUBLIC FINANCE; AUTHORIZING THE ISSUANCE OF BONDS SECURED BY A STATE GROSS RECEIPTS TAX INCREMENT FOR THE CITY OF LAS CRUCES MAIN STREET DOWNTOWN TAX INCREMENT DEVELOPMENT PROJECT; SUBJECTING THE AUTHORIZATION TO CERTAIN CONDITIONS.

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

Chapter 9 Section 1 Laws 2010

Section 1. AUTHORIZATION OF ISSUANCE OF BONDS.--The legislature authorizes the issuance of bonds not to exceed eight million dollars (\$8,000,000) in net proceeds, secured by tax increments authorized pursuant to the Tax Increment for Development Act to be pledged to pay the principal of and interest on the bonds, including a gross receipts tax increment attributed to the imposition of the state gross receipts tax for the city of Las Cruces main street downtown tax increment development project, subject to:

A. the review by the New Mexico finance authority prior to issuance of any bonds of the master indenture applicable to bonds issued for the city of Las Cruces main street tax increment development project;

B. the review by the New Mexico finance authority of any amendments to the master indenture prior to the issuance of the bonds after any amendments; and

C. the determination by the New Mexico finance authority that the master indenture and any amendments to the master indenture contain covenants and other provisions that ensure that the proceeds of the bonds will be used as described in the development plan for the city of Las Cruces main street tax increment development project.

Chapter 9 Section 2 Laws 2010

Section 2. ADDITIONAL REQUIREMENTS.--The New Mexico finance authority may require additional covenants and provisions that it determines are reasonably necessary or advisable to ensure that the principal, interest and other payments due with respect to the bonds authorized pursuant to Section 1 of this act are paid as soon as possible after tax increment revenues pledged to pay the bonds are available.

Chapter 9 Section 3 Laws 2010

Section 3. DURATION OF AUTHORIZATION.--The duration of the authorization for issuance of bonds in this act is twenty-five years except as this act may be amended or repealed by the legislature.

Chapter 9 Section 4 Laws 2010

Section 4. CERTAIN CAPITAL PROJECTS PROHIBITED.--

A. The legislature shall not approve or authorize capital outlay projects within a city of Las Cruces main street downtown tax increment development district during the period that bonds issued pursuant to Section 1 of this act are outstanding for that specific district, except for those buildings or facilities that are owned by the state or one of its agencies, institutions or political subdivisions and that are:

(1) public school buildings or facilities;

- (2) higher education buildings or facilities;
- (3) cultural buildings or facilities;
- (4) buildings or facilities, exclusive of roads, used for public safety;

or

- (5) buildings used for other public purposes.

B. Nothing in this section prohibits the legislature from authorizing expenditures, pursuant to law, for economic development projects within a specific city of Las Cruces main street downtown tax increment development district for which any tax increment development bonds are outstanding.

Senate Bill 95, aa, w/o ec

Approved March 1, 2010

LAWS 2010, CHAPTER 10

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; ENACTING THE COLONIAS INFRASTRUCTURE ACT; CREATING A BOARD; PRESCRIBING POWERS AND DUTIES; CREATING A TRUST FUND; CREATING A PROJECT FUND; ALLOCATING SEVERANCE TAX BONDING CAPACITY FOR COLONIAS INFRASTRUCTURE PROJECTS; AUTHORIZING SEVERANCE TAX BONDS; MAKING APPROPRIATIONS.

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

Chapter 10 Section 1 Laws 2010

Section 1. SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Colonias Infrastructure Act".

Chapter 10 Section 2 Laws 2010

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) colonias lack basic infrastructure resulting in poor social, health and economic conditions;

(2) adequate infrastructure such as water and wastewater systems, solid waste disposal facilities, flood and drainage control, roads and housing infrastructure are essential to improved health, safety and welfare of all New Mexicans, including residents of the colonia communities;

(3) local efforts and resources have been insufficient to develop and maintain a consistent and adequate level of infrastructure;

(4) addressing the urgent need of replacing, improving and developing infrastructure through the use of an alternative financing mechanism is a long-term cost savings benefit to both the state and the communities; and

(5) adequate infrastructure development allows colonia residents to achieve the basic conditions necessary to improve the quality of their lives.

B. The purposes of the Colonias Infrastructure Act are to:

(1) ensure adequate financial resources for infrastructure development for colonia recognized communities;

(2) provide for the planning and development of infrastructure in an efficient and cost-effective manner; and

(3) develop infrastructure projects to improve quality of life and encourage economic development.

Chapter 10 Section 3 Laws 2010

Section 3. DEFINITIONS.--As used in the Colonias Infrastructure Act:

A. "authority" means the New Mexico finance authority;

B. "board" means the colonias infrastructure board;

C. "colonia" means a rural community with a population of twenty-five thousand or less located within one hundred fifty miles of the United States-Mexico border that:

(1) has been designated as a colonia by the municipality or county in which it is located because of a:

(a) lack of potable water supply;

(b) lack of adequate sewage systems; or

(c) lack of decent, safe and sanitary housing;

(2) has been in existence as a colonia prior to November 1990; and

(3) has submitted appropriate documentation to the board to substantiate the conditions of this subsection, including documentation that supports the designation of the municipality or county;

D. "financial assistance" means providing grants or loans on terms and conditions approved by the authority;

E. "project fund" means the colonias infrastructure project fund;

F. "qualified entity" means a county, municipality or other entity recognized as a political subdivision of the state;

G. "qualified project" means a capital outlay project selected by the board for financial assistance that is primarily intended to develop colonias infrastructure. A qualified project may include a water system, a wastewater system, solid waste disposal facilities, flood and drainage control, roads or housing infrastructure; but "qualified project" does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies; and

H. "trust fund" means the colonias infrastructure trust fund.

Chapter 10 Section 4 Laws 2010

Section 4. COLONIAS INFRASTRUCTURE BOARD CREATED.--

A. The "colonias infrastructure board" is created.

B. The board shall consist of seven voting members as follows:

(1) the secretary of finance and administration or the secretary's designee from the department of finance and administration;

(2) the secretary of environment or the secretary's designee from the department of environment;

(3) the chief executive officer of the authority or the chief executive officer's designee from the authority;

(4) one member appointed by the president pro tempore of the senate;

(5) one member appointed by the minority leader of the senate;

(6) one member appointed by the speaker of the house of representatives; and

(7) one member appointed by the minority leader of the house of representatives.

C. The members appointed pursuant to Paragraphs (4) through (7) of Subsection B of this section shall be appointed with the advice and consent of the senate, serve at the pleasure of the appointing authority, be residents of the colonias area and have experience in capital project development or administration, and they may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance.

D. There shall be five advisory, nonvoting members of the board as follows:

(1) the executive director of the south central council of governments or the director's designee;

(2) the executive director of the southwest New Mexico council of governments or the director's designee;

(3) the executive director of the southeastern New Mexico economic development district or the director's designee;

(4) the executive director of the New Mexico association of counties or the director's designee; and

(5) the executive director of the New Mexico mortgage finance authority or the director's designee.

E. The board shall choose a chair and vice chair from among its members and such other officers as it deems necessary. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of a quorum shall be necessary for an action to be taken by the board. The board shall meet whenever a voting member submits a request in writing to the chair, but not less than quarterly.

F. All meetings of the board shall be open to the public and subject to the Open Meetings Act and, at each meeting, the board shall provide an opportunity for public comment.

Chapter 10 Section 5 Laws 2010

Section 5. BOARD--DUTIES.--The board shall:

A. promulgate such rules as are necessary to govern the acceptance, evaluation and prioritization of applications submitted by qualified entities for financial assistance;

B. after applications have been processed and evaluated by the authority, prioritize the qualified projects for financial assistance; and

C. upon such terms and conditions as are established by the authority, recommend the prioritized projects to the authority for financial assistance for:

(1) planning, designing, constructing, improving or expanding a qualified project;

(2) developing engineering feasibility reports for qualified projects;

(3) inspecting construction of qualified projects;

(4) providing professional services;

(5) completing environmental assessments or archaeological clearances and other surveys for qualified projects;

(6) acquiring land, water rights, easements or rights of way; or

(7) paying legal costs and fiscal agent fees associated with development of qualified projects.

Chapter 10 Section 6 Laws 2010

Section 6. AUTHORITY--DUTIES.--The authority shall:

A. provide staff support to the board;

B. administer the project fund;

C. at the direction of the board, process, review and evaluate applications for financial assistance from qualified entities; and

D. at the direction of the board, administer qualified projects that receive financial assistance.

Chapter 10 Section 7 Laws 2010

Section 7. COLONIAS INFRASTRUCTURE TRUST FUND--CREATED--
INVESTMENT--DISTRIBUTION.--

A. The "colonias infrastructure trust fund" is created in the state treasury. The trust fund shall consist of money that is appropriated, donated or otherwise allocated to it. Money in the trust fund shall be invested by the state investment officer in the manner that land grant permanent funds are invested pursuant to Chapter 6, Article 8 NMSA 1978. Income from investment of the trust fund shall be credited to the fund. Money in the trust fund shall not be expended for any purpose, but an annual distribution from the trust fund shall be made to the project fund pursuant to this section.

B. On July 1 of each year in which adequate money is available in the trust fund, an annual distribution shall be made from the trust fund to the project fund in the amount of ten million dollars (\$10,000,000) until the distribution is less than an amount equal to four and seven-tenths percent of the average of the year-end market values of the trust fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be four and seven-tenths percent of the average of the year-end market values of the trust fund for the immediately preceding five calendar years.

Chapter 10 Section 8 Laws 2010

Section 8. COLONIAS INFRASTRUCTURE PROJECT FUND--CREATED--
PURPOSE--APPROPRIATIONS.--

A. The "colonias infrastructure project fund" is created in the authority and shall be administered by the authority.

B. The project fund shall consist of:

- (1) distributions from the trust fund;
- (2) payments of principal and interest on loans for qualified projects;
- (3) other money appropriated by the legislature or distributed or otherwise allocated to the project fund for the purpose of supporting qualified projects;
- (4) the proceeds of severance tax bonds appropriated to the fund for qualified projects; and
- (5) income from investment of the project fund that shall be credited to the project fund.

C. Except for severance tax bond proceeds required to revert to the severance tax bonding fund, balances in the project fund at the end of a fiscal year shall not revert to any other fund.

D. The project fund may consist of subaccounts as determined to be necessary by the authority.

E. The authority may establish procedures and adopt rules as required to:

(1) administer the project fund;

(2) originate grants or loans for qualified projects recommended by the board;

(3) recover from the project fund the costs of administering the fund and originating the grants and loans; and

(4) govern the process through which qualified entities may apply for financial assistance from the project fund.

Chapter 10 Section 9 Laws 2010

Section 9. A new section of the Severance Tax Bonding Act is enacted to read:

"AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR INFRASTRUCTURE PROJECTS FOR COLONIAS.--

A. After the annual estimate of severance tax bonding capacity pursuant to Subsection A of Section 7-27-10.1 NMSA 1978, the board of finance division of the department of finance and administration shall allocate five percent of the estimated bonding capacity each year for colonias infrastructure projects, and the legislature authorizes the state board of finance to issue severance tax bonds in the annually allocated amount for use by the colonias infrastructure board to fund the projects. The colonias infrastructure board shall certify to the state board of finance the need for issuance of bonds for colonias infrastructure projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the colonias infrastructure project fund for the purposes certified by the colonias infrastructure board to the state board of finance.

B. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of severance tax bonds issued for a colonias infrastructure project shall revert to the severance tax bonding fund within six months of completion of the project. The colonias

infrastructure board shall monitor and ensure proper reversions of the bond proceeds appropriated for the projects.

C. As used in this section, "colonias infrastructure project" means a qualified project under the Colonias Infrastructure Act."

Chapter 10 Section 10 Laws 2010

Section 10. APPLICABILITY.--The allocation of severance tax bonding capacity and the authorization of severance tax bonds for colonias infrastructure projects pursuant to Section 9 of this act shall commence with the severance tax bonding capacity estimated by January 15, 2012 for authorization by the second session of the fiftieth legislature.

Chapter 10 Section 11 Laws 2010

Section 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.

SFC/SPAC/Senate Bill 279, aa

Approved March 1, 2010

LAWS 2010, CHAPTER 11

AN ACT

RELATING TO PUBLIC FINANCE; AUTHORIZING THE ISSUANCE OF BONDS SECURED BY A STATE GROSS RECEIPTS TAX INCREMENT FOR THE CITY OF LAS CRUCES MAIN STREET DOWNTOWN TAX INCREMENT DEVELOPMENT PROJECT; SUBJECTING THE AUTHORIZATION TO CERTAIN CONDITIONS.

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

Chapter 11 Section 1 Laws 2010

Section 1. AUTHORIZATION OF ISSUANCE OF BONDS.--The legislature authorizes the issuance of bonds not to exceed eight million dollars (\$8,000,000) in net proceeds, secured by tax increments authorized pursuant to the Tax Increment for Development Act to be pledged to pay the principal of and interest on the bonds, including a gross receipts tax increment attributed to the imposition of the state gross receipts tax for the city of Las Cruces main street downtown tax increment development project, subject to:

A. the review by the New Mexico finance authority prior to issuance of any bonds of the master indenture applicable to bonds issued for the city of Las Cruces main street tax increment development project;

B. the review by the New Mexico finance authority of any amendments to the master indenture prior to the issuance of the bonds after any amendments; and

C. the determination by the New Mexico finance authority that the master indenture and any amendments to the master indenture contain covenants and other provisions that ensure that the proceeds of the bonds will be used as described in the development plan for the city of Las Cruces main street tax increment development project.

Chapter 11 Section 2 Laws 2010

Section 2. ADDITIONAL REQUIREMENTS.--The New Mexico finance authority may require additional covenants and provisions that it determines are reasonably necessary or advisable to ensure that the principal, interest and other payments due with respect to the bonds authorized pursuant to Section 1 of this act are paid as soon as possible after tax increment revenues pledged to pay the bonds are available.

Chapter 11 Section 3 Laws 2010

Section 3. DURATION OF AUTHORIZATION.--The duration of the authorization for issuance of bonds in this act is twenty-five years except as this act may be amended or repealed by the legislature.

Chapter 11 Section 4 Laws 2010

Section 4. CERTAIN CAPITAL PROJECTS PROHIBITED.--

A. The legislature shall not approve or authorize capital outlay projects within a city of Las Cruces main street downtown tax increment development district during the period that bonds issued pursuant to Section 1 of this act are outstanding for that specific district, except for those buildings or facilities that are owned by the state or one of its agencies, institutions or political subdivisions and that are:

- (1) public school buildings or facilities;
- (2) higher education buildings or facilities;
- (3) cultural buildings or facilities;
- (4) buildings or facilities, exclusive of roads, used for public safety;

or

(5) buildings used for other public purposes.

B. Nothing in this section prohibits the legislature from authorizing expenditures, pursuant to law, for economic development projects within a specific city of Las Cruces main street downtown tax increment development district for which any tax increment development bonds are outstanding.

House Bill 112, aa

Approved March 1, 2010

LAWS 2010, CHAPTER 12

AN ACT

RELATING TO PUBLIC EMPLOYMENT; ENACTING THE WHISTLEBLOWER PROTECTION ACT; PROHIBITING PUBLIC EMPLOYER RETALIATORY ACTION AGAINST PUBLIC EMPLOYEES IN CERTAIN CIRCUMSTANCES; CREATING A RIGHT TO CIVIL ACTION FOR DAMAGES.

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

Chapter 12 Section 1 Laws 2010

Section 1. SHORT TITLE.--This act may be cited as the "Whistleblower Protection Act".

Chapter 12 Section 2 Laws 2010

Section 2. DEFINITIONS.--As used in the Whistleblower Protection Act:

A. "good faith" means that a reasonable basis exists in fact as evidenced by the facts available to the public employee;

B. "public employee" means a person who works for or contracts with a public employer;

C. "public employer" means:

(1) any department, agency, office, institution, board, commission, committee, branch or district of state government;

(2) any political subdivision of the state, created under either general or special act, that receives or expends public money from whatever source derived;

(3) any entity or instrumentality of the state specifically provided for by law; and

(4) every office or officer of any entity listed in Paragraphs (1) through (3) of this subsection;

D. "retaliatory action" means taking any discriminatory or adverse employment action against a public employee in the terms and conditions of public employment; and

E. "unlawful or improper act" means a practice, procedure, action or failure to act on the part of a public employer that:

(1) violates a federal law, a federal regulation, a state law, a state administrative rule or a law of any political subdivision of the state;

(2) constitutes malfeasance in public office; or

(3) constitutes gross mismanagement, a waste of funds, an abuse of authority or a substantial and specific danger to the public.

Chapter 12 Section 3 Laws 2010

Section 3. PUBLIC EMPLOYER RETALIATORY ACTION PROHIBITED.--A public employer shall not take any retaliatory action against a public employee because the public employee:

A. communicates to the public employer or a third party information about an action or a failure to act that the public employee believes in good faith constitutes an unlawful or improper act;

B. provides information to, or testifies before, a public body as part of an investigation, hearing or inquiry into an unlawful or improper act; or

C. objects to or refuses to participate in an activity, policy or practice that constitutes an unlawful or improper act.

Chapter 12 Section 4 Laws 2010

Section 4. RIGHT TO CIVIL ACTION FOR DAMAGES--AFFIRMATIVE DEFENSES--REMEDY NOT EXCLUSIVE.--

A. A public employer that violates the provisions of the Whistleblower Protection Act shall be liable to the public employee for actual damages, reinstatement with the same seniority status that the employee would have had but for the violation, two times the amount of back pay with interest on the back pay and compensation for any special damage sustained as a result of the violation. In addition, an employer shall be required to pay the litigation costs and reasonable attorney fees of the employee. An employee may bring an action pursuant to this section in any court of competent jurisdiction.

B. It shall be an affirmative defense to a civil action brought pursuant to this section that the action taken by a public employer against a public employee was due to the employee's misconduct, the employee's poor job performance, a reduction in work force or other legitimate business purpose unrelated to conduct prohibited pursuant to the Whistleblower Protection Act and that retaliatory action was not a motivating factor.

C. The remedies provided for in the Whistleblower Protection Act are not exclusive and shall be in addition to any other remedies provided for in any other law or available under common law.

D. Nothing in the Whistleblower Protection Act precludes civil actions or criminal sanctions for libel, slander or other civil or criminal claims against a person who files a false claim under that act.

Chapter 12 Section 5 Laws 2010

Section 5. POSTING OF LAW AND INFORMATION.--Every public employer shall keep posted in a conspicuous place on the public employer's premises notices prepared by the employer that set forth the provisions of the Whistleblower Protection Act.

Chapter 12 Section 6 Laws 2010

Section 6. LIMITATION ON ACTIONS.--A civil action pursuant to the Whistleblower Protection Act shall be forever barred unless the action is filed within two years from the date on which the retaliatory action occurred.

Chapter 12 Section 7 Laws 2010

Section 7. APPLICABILITY.--The provisions of this act apply only to civil actions for damages resulting from retaliatory action that occurred on or after July 1, 2008.

Approved March 1, 2010

LAWS 2010, CHAPTER 13

AN ACT

RELATING TO APPRAISAL MANAGEMENT COMPANIES; AMENDING PROCEDURES FOR DISCIPLINARY PROCEEDINGS; CLARIFYING THE RIGHTS AND OBLIGATIONS OF APPRAISERS AND APPRAISAL MANAGEMENT COMPANIES WITH REGARD TO LIABILITY, FEES AND DISCLOSURE; REQUIRING SURETY.

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

Chapter 13 Section 1 Laws 2010

Section 1. Section 47-14-1 NMSA 1978 (being Laws 2009, Chapter 214, Section 1) is amended to read:

"47-14-1. SHORT TITLE.--Chapter 47, Article 14 NMSA 1978 may be cited as the "Appraisal Management Company Registration Act"."

Chapter 13 Section 2 Laws 2010

Section 2. Section 47-14-3 NMSA 1978 (being Laws 2009, Chapter 214, Section 3) is amended to read:

"47-14-3. REGISTRATION REQUIRED.--

A. It is unlawful for a person, corporation, partnership, sole proprietorship, subsidiary, limited liability company or any other business entity to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a certificate of registration issued by the board under the provisions of the Appraisal Management Company Registration Act, regardless of the entity's use of the term "appraisal management company", "mortgage technology company" or any other name.

B. The registration required by Subsection A of this section shall include:

- (1) the name of the entity seeking registration;
- (2) the business address of the entity seeking registration;

(3) telephone contact information of the entity seeking registration;

(4) if the entity seeking registration is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;

(5) the name, address and contact information for any individual or any corporation, partnership or other business entity that owns ten percent or more of the appraisal management company;

(6) the name, address and contact information for a controlling person;

(7) a certification that the entity seeking registration has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license or certification in good standing in this state pursuant to the Real Estate Appraisers Act;

(8) a certification that the entity seeking registration has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to ensure that the real estate appraisal services are being conducted in accordance with uniform standards of professional appraisal practice;

(9) a certification that the entity maintains a detailed record of each service request that it receives and the independent appraiser that performs the real estate appraisal services for the appraisal management company;

(10) an irrevocable consent to service of process;

(11) a bond or other equivalent means of security as required by the Appraisal Management Company Registration Act; and

(12) any other information required by the board."

Chapter 13 Section 3 Laws 2010

Section 3. Section 47-14-12 NMSA 1978 (being Laws 2009, Chapter 214, Section 12) is amended to read:

"47-14-12. EMPLOYEE REQUIREMENTS.--

A. Any employee of the appraisal management company, or any person working on behalf of the appraisal management company, that has the responsibility of selecting independent appraisers for the performance of real estate appraisal services for the appraisal management company or the responsibility of reviewing completed

appraisals shall have geographic and product competence and be appropriately trained and qualified in the performance of real estate appraisals as determined by the board by rule.

B. Any employee of the appraisal management company that has the responsibility to review the work of independent appraisers shall have demonstrated knowledge of the uniform standards of professional appraisal practice, as determined by the board by rule."

Chapter 13 Section 4 Laws 2010

Section 4. Section 47-14-13 NMSA 1978 (being Laws 2009, Chapter 214, Section 13) is amended to read:

"47-14-13. REQUIREMENTS--LIABILITY.--

A. An appraisal management company registered in this state pursuant to the Appraisal Management Company Registration Act shall not enter into contracts or agreements with an independent appraiser for the performance of real estate appraisal services unless that person is licensed or certified in good standing pursuant to the Real Estate Appraisers Act.

B. An appraisal management company shall not require an appraiser to indemnify the appraisal management company against liability except liability for errors and omissions by the appraiser."

Chapter 13 Section 5 Laws 2010

Section 5. Section 47-14-18 NMSA 1978 (being Laws 2009, Chapter 214, Section 18) is amended to read:

"47-14-18. PAYMENT--LIMITS--DISCLOSURE--NONTAXABLE TRANSACTION CERTIFICATE.--

A. The fees paid to an appraiser for completion of the appraisal shall not include a fee for management of the appraisal process or any activity other than the performance of the appraisal.

B. An appraisal management company shall separately state the fees paid to an appraiser for appraisal services and the fees charged by the appraisal management company for services associated with the management of the appraisal process, including procurement of the appraiser's services to the client, borrower and any other payor.

C. Appraisers shall not be prohibited by the appraisal management company, client or other third party from disclosing the fee paid to the appraiser for the performance of the appraisal in the appraisal report.

D. As used in this section, "payor" means any person or entity who is responsible for making payment for the appraisal.

E. An appraisal management company shall, except in cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment within sixty days of the date on which the independent appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

F. An appraisal management company shall provide an appraiser with the appropriate nontaxable transaction certificate pursuant to Section 7-9-48 NMSA 1978."

Chapter 13 Section 6 Laws 2010

Section 6. Section 47-14-22 NMSA 1978 (being Laws 2009, Chapter 214, Section 22) is amended to read:

"47-14-22. DISCIPLINARY HEARINGS.--The board shall conduct adjudicatory proceedings in accordance with the Uniform Licensing Act; provided that:

A. a written notice shall be satisfied by personal service on the controlling person of the registrant or the registrant's agent for service of process in this state or by sending the notice by certified mail, return receipt requested, to the controlling person of the registrant to the registrant's address on file with the board; and

B. a hearing on the charges shall be at a time and place prescribed by the board."

Chapter 13 Section 7 Laws 2010

Section 7. A new section of the Appraisal Management Company Registration Act is enacted to read:

"BONDING REQUIREMENTS.--

A. In order to qualify for registration or renewal of registration, an appraisal management company shall maintain a bond underwritten by a corporate surety authorized to transact business in New Mexico, or other equivalent means of security. The board shall set by rule the amount and conditions of the surety bond or other equivalent means of security required by this section, provided that the amount of the bond or security required shall not exceed twenty-five thousand dollars (\$25,000).

B. The bond or other equivalent means of surety shall secure payment for any administrative or judicial penalties that may be imposed by the board or the state and for any penalties or costs required by a board disciplinary action, and also as indemnity for any loss sustained by any person damaged as a result of a violation by the appraisal management company, of any provision of the Appraisal Management Company Registration Act or of any rule of the board adopted pursuant to that act. Consumer claims shall be given priority in recovering from the bond or equivalent surety.

C. An appraisal management company shall notify the board in writing of any claim made on the appraisal management company's bond or equivalent surety.

D. A deposit of cash or security may be accepted in lieu of the surety bond."

Chapter 13 Section 8 Laws 2010

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

SJC/Senate Bill 138, aa

Approved March 1, 2010

LAWS 2010, CHAPTER 14

AN ACT

RELATING TO STATE INVESTMENTS; CHANGING THE COMPOSITION OF THE STATE INVESTMENT COUNCIL; AMENDING POWERS AND DUTIES OF THE STATE INVESTMENT OFFICER AND THE STATE INVESTMENT COUNCIL; PROVIDING FOR THE STATE INVESTMENT COUNCIL TO APPOINT THE STATE INVESTMENT OFFICER AND TO APPOINT MEMBERS TO THE PRIVATE EQUITY INVESTMENT ADVISORY COMMITTEE; CHANGING THE METHOD OF APPOINTMENT OF PUBLIC MEMBERS OF THE STATE INVESTMENT COUNCIL; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005; DECLARING AN EMERGENCY.

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

Chapter 14 Section 1 Laws 2010

Section 1. Section 6-8-2 NMSA 1978 (being Laws 1957, Chapter 179, Section 2, as amended) is amended to read:

"6-8-2. STATE INVESTMENT COUNCIL.--

A. There is created a "state investment council". The council shall be composed of:

(1) the governor;

(2) the state treasurer;

(3) the commissioner of public lands;

(4) the secretary;

(5) the chief financial officer of a state institution of higher education appointed by the governor with the advice and consent of the senate;

(6) four members appointed by the New Mexico legislative council with the advice and consent of the senate; provided that no more than two members shall be members of the same political party; and

(7) two members appointed by the governor with the advice and consent of the senate.

B. The chair of the council shall be the governor, and the vice chair shall be selected by the council. All actions of the council shall be by majority vote, and a majority of the members shall constitute a quorum.

C. Members of the council appointed pursuant to Paragraphs (6) and (7) of Subsection A of this section shall be reimbursed per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act."

Chapter 14 Section 2 Laws 2010

Section 2. Section 6-8-3 NMSA 1978 (being Laws 1957, Chapter 179, Section 3, as amended) is amended to read:

"6-8-3. COUNCIL TERMS AND QUALIFICATIONS.--

A. Members of the council appointed pursuant to Paragraphs (6) and (7) of Subsection A of Section 6-8-2 NMSA 1978, with the advice and consent of the senate, shall serve for staggered terms of five years. Members of the council shall serve until their successors are appointed and have qualified.

B. The members of the council appointed pursuant to Paragraphs (6) and (7) of Subsection A of Section 6-8-2 NMSA 1978 shall be qualified by competence and no less than ten years experience in the field of investment or finance. A member of the council shall not have had any contracts to do business with the state investment council, the investment office, the office of the state treasurer, the educational retirement board, the public employees retirement association, the New Mexico finance authority or the state board of finance for a period of two calendar years prior to the person's appointment to the council and shall not enter into any contracts to do business with any of the named state agencies or instrumentalities for a period of two calendar years after the end of the term for which the member was appointed. Members of the council and officers and employees of the council shall be governed by the provisions of the Governmental Conduct Act. Nothing in this section or in the Governmental Conduct Act shall be construed as prohibiting an officer of a financial institution from participating as a member of the council in setting general policies of the council, nor shall any provision of the Governmental Conduct Act prohibit the council or the state treasurer from depositing funds under the jurisdiction of the council in any financial institution. A council member shall not hold an office or employment in a political party.

C. The member appointed pursuant to Paragraph (5) of Subsection A of Section 6-8-2 NMSA 1978 shall serve at the pleasure of the governor. A member of the council appointed pursuant to Paragraphs (6) and (7) of Subsection A of Section 6-8-2 NMSA 1978 may be removed from the council by the appointing person or entity, for failure to attend three consecutive meetings or other cause, in the manner provided for removal of members of boards of regents under Article 12, Section 13 of the constitution of New Mexico. A vacancy in the membership of the council occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only."

Chapter 14 Section 3 Laws 2010

Section 3. Section 6-8-4 NMSA 1978 (being Laws 1957, Chapter 179, Section 4, as amended) is amended to read:

"6-8-4. INVESTMENT OFFICE--STATE INVESTMENT OFFICER--TERMS.--

A. There is established an "investment office". The chief administrative officer of the office shall be known as the "state investment officer".

B. The state investment officer shall be appointed by the council. The state investment officer shall devote the officer's entire time and attention to the duties of that office and shall not engage in any other occupation or profession or hold any other public office, appointive or elective. The officer shall be a person qualified, by training and investment experience, to direct the work of the investment office and shall have had at least five years' professional experience as an investment officer. The

officer shall receive a salary to be determined by the state investment council but in no case less than fifty thousand dollars (\$50,000) annually.

C. The state investment officer shall serve for an initial term of two years beginning July 1, 1981 and thereafter for terms of four years. The state investment officer may be removed from office by the council for cause."

Chapter 14 Section 4 Laws 2010

Section 4. Section 6-8-7 NMSA 1978 (being Laws 1957, Chapter 179, Section 7, as amended by Laws 2005, Chapter 194, Section 1 and by Laws 2005, Chapter 240, Section 1) is amended to read:

"6-8-7. POWERS AND DUTIES OF THE STATE INVESTMENT COUNCIL AND STATE INVESTMENT OFFICER--INVESTMENT POLICY--INVESTMENT MANAGERS.--

A. Subject to the limitations, conditions and restrictions contained in policy-making regulations or resolutions adopted by the council, the council may make purchases, sales, exchanges, investments and reinvestments of the assets of all funds in accordance with the Uniform Prudent Investor Act. The state investment officer and the council are trustees of all funds under their control and shall see that money invested is at all times handled in the best interests of the state. The council may delegate administrative functions to the state investment officer.

B. The state investment officer shall formulate and recommend to the council for approval investment regulations or resolutions pertaining to the kind or nature of investments and limitations, conditions and restrictions upon the methods, practices or procedures for investment, reinvestment, purchase, sale or exchange transactions that should govern the activities of the investment office.

C. The council shall meet at least once each month, and as often as exigencies may demand, to consult with the state investment officer concerning the work of the investment office. The council shall have access to all files and records of the investment office and shall require the state investment officer to report on and provide information necessary to the performance of council functions. The council may hire one or more investment management firms to advise the council with respect to the council's overall investment plan for the investment of all funds managed by the investment office and pay reasonable compensation for such advisory services from the assets of the applicable funds, subject to budgeting and appropriation by the legislature. The terms of any such investment management services contract shall incorporate the statutory requirements for investment of funds under the council's jurisdiction.

D. The council shall provide an opportunity for public comment at meetings of the council. Advance notice of meetings shall be published on the council's

web site and in a newspaper of general circulation at least ten days in advance of the meeting.

E. All funds managed by the state investment officer shall be managed in accordance with the Uniform Prudent Investor Act. The council may employ investment management services to invest the funds and may pay reasonable compensation for investment management services from the assets of the applicable funds, subject to budgeting and appropriation by the legislature.

F. The council, the state investment officer, any person providing investment advice to the council or state investment officer for a fee or other compensation and all persons exercising discretionary authority or control of funds under the management of the council are fiduciaries.

G. The council may select and contract for the services of one or more custodian banks for all funds under the council's management. For the purpose of this subsection, "custodian bank" means a financial institution with the general fiduciary duties to manage, control and collect the assets of an investment fund, including receiving all deposits and paying all disbursements as directed by staff, safekeeping of assets, coordination of asset transfers, timely settlement of securities transactions and accurate and timely reporting of the assets by individual account and in total.

H. For funds available for investment for more than one year, the council may contract with any state agency to provide investment advisory or investment management services, separately or through a pooled investment fund, provided the state agency enters into a joint powers agreement with the council and that state agency pays at least the direct cost of such services. Notwithstanding any statutory provision governing state agency investments, the council may invest funds available from a state agency pursuant to a joint powers agreement in any type of investment permitted for the land grant permanent funds under the prudent investor rule. In performing investment services for a state agency, the council and the state investment officer are exempt from the New Mexico Uniform Securities Act. As used in this subsection, "state agency" means any branch, agency, department, board, instrumentality, institution or political subdivision of the state, the New Mexico finance authority, the New Mexico mortgage finance authority and any tax-exempt private endowment entity whose sole beneficiary is a state agency.

I. The state investment officer shall provide quarterly performance reports to the legislative finance committee. Annually, the state investment officer shall ratify and provide written investment policies, including any amendments, to the legislative finance committee."

Chapter 14 Section 5 Laws 2010

Section 5. Section 6-8-14 NMSA 1978 (being Laws 1957, Chapter 179, Section 14, as amended) is amended to read:

"6-8-14. MONTHLY REPORTS.--No later than ten days after the close of each month, the state investment officer shall submit to the secretary and the state investment council a report of the operations of the office during the past month. Each report shall give a complete statement of the state investment portfolio as of the time of the report and in addition, shall include a detailed summary of the month's investment, reinvestment, purchase, sale and exchange transactions, setting forth the investments bought, sold or exchanged, the dates thereof, the prices paid or obtained, the names of the dealers involved, fees paid for each transaction, disclosure of contractor arrangements and a statement of the funds or accounts referred to herein. The reports shall also be circulated to a mailing list of investment bankers and brokers recommended by the council. The reports shall be published on the web sites of the council, the legislature and the department of finance and administration and shall be open for inspection to the public and the press in the office of the state investment officer."

Chapter 14 Section 6 Laws 2010

Section 6. Section 6-8-20 NMSA 1978 (being Laws 1987, Chapter 219, Section 3, as amended) is amended to read:

"6-8-20. PRIVATE EQUITY INVESTMENT ADVISORY COMMITTEE CREATED--MEMBERSHIP--DUTIES--TERMS--LIABILITIES--CONFLICT OF INTEREST.--

A. There is created the "private equity investment advisory committee" to the council. The committee consists of the state investment officer, a member of the council appointed by the council and three members who are qualified by competence and experience in finance and investment and knowledgeable about the private equity investment process and who are appointed by the council.

B. Members appointed by the council, except the council member, shall be appointed for three-year terms; provided that the terms of the initial committee members shall be staggered so that the term of one member expires each year. After the initial appointments, all appointed members shall be appointed for three-year terms. Members shall serve until their successors are appointed. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment, but only for the unexpired term.

C. The committee shall review and make recommendations to the council on investments authorized pursuant to Sections 7-27-5.15 and 7-27-5.26 NMSA 1978 and all other private equity investments and shall advise the council in matters and policies related to such investments. The committee shall establish policies for national private equity fund investments, New Mexico private equity fund investments and New Mexico film private equity fund investments not less often than annually and shall make copies available to interested parties.

D. Members of the committee shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

E. The committee shall elect annually a chair from among its members and may elect other officers as necessary. The committee shall meet upon the call of the chair or the state investment officer.

F. Members of the committee are public employees within the meaning of the Tort Claims Act and are entitled to all immunity and indemnification provided under that act.

G. A person shall not be a member of the committee if any recommendation, action or decision of the committee will or is likely to result in direct, measurable economic gain to that person or that person's employer.

H. The state investment officer may enter into contracts with investment advisors for private equity fund investments and film fund investments authorized pursuant to Sections 7-27-5.15 and 7-27-5.26 NMSA 1978 and all other private equity investments and may pay budgeted expenses for the advisors from the assets of any fund administered under the supervision of the council, as applicable.

I. As used in this section, "private equity investments" means any legal entity that has as its primary business activity the investment of funds in return for equity in or debt of businesses for the purpose of providing capital for startup, expansion, new product development, recapitalization or a similar business purpose."

Chapter 14 Section 7 Laws 2010

Section 7. Section 6-10-35 NMSA 1978 (being Laws 1934 (S.S.), Chapter 24, Section 3, as amended by Laws 1987, Chapter 79, Section 14 and by Laws 1987, Chapter 87,

Section 1) is amended to read:

"6-10-35. FISCAL AGENT OF NEW MEXICO--STATE CHECKING DEPOSITORIES--STATE DEPOSITORIES--DESIGNATION BY BOARD OF FINANCE.--

A. Except as otherwise provided by law, the state board of finance may designate a bank or savings and loan association doing business in this state and having an unimpaired capital and surplus of at least one hundred fifty thousand dollars (\$150,000) as the "fiscal agent of New Mexico". The designation is subject to change, from time to time, by the state board of finance; however, the board shall formulate and adopt designation procedures, filed in accordance with the State Rules Act, that shall be adhered to on each occasion of designation. The board, after it has designated the

fiscal agent, shall apprise the legislature of its action and, in addition to the name of the designated fiscal agent, the communication shall include a brief description of the designee's particular qualifications.

B. The bank or savings and loan association designated as the fiscal agent of New Mexico shall enter into an agreement with the state, acting through the state board of finance, for:

(1) the collection for the state of all checks and other items received by the state on any account;

(2) the handling of the checking account of the state treasurer;

(3) the handling of all transfers of money in connection with the sale or retirement of bonds or obligations of the state or the purchase by the state of bonds or other securities;

(4) the investment of permanent or other funds of the state;

(5) the safekeeping of bonds or other securities belonging to or held by the state or any official of the state;

(6) the rate of interest to be paid upon average daily balances of state funds; and

(7) acting as the agent of the state in fiscal matters generally, subject always to the supervision and approval of the state board of finance.

C. The agreement shall contain the terms and conditions that are necessary, in the judgment of the state board of finance, for the proper conduct of the fiscal affairs of the state and the safekeeping of the money of the state.

D. The state board of finance shall require the fiscal agent of New Mexico to furnish surety company bond or securities of the kinds specified by law for the security of deposits of public money in an amount not less than two million five hundred thousand dollars (\$2,500,000) as security for the safekeeping of the money of the state and the faithful performance of its duties as the fiscal agent. The state board of finance may adjust the amount of bond or security from time to time, but in no event shall the bond or security be in an amount less than two million five hundred thousand dollars (\$2,500,000). No other bond or security is required of the fiscal agent for the securing of funds deposited by the state treasurer in the fiscal agency account, and the state treasurer is not liable upon the state treasurer's official bond on account of funds deposited in the fiscal agency account when the account is so secured. Nothing in this section shall prevent the bank or savings and loan association designated as fiscal agent from also qualifying as a state depository pursuant to Chapter 6, Article 10 NMSA 1978.

E. Payment to the fiscal agent of New Mexico for services performed may be made by the state board of finance upon warrants drawn by the secretary upon the state treasury as provided by law for expenditure of state funds or by compensating balances or a combination thereof. The legislature shall appropriate funds to the state board of finance for this purpose annually.

F. The state board of finance may also designate, according to its adopted designation procedures, not more than two other banks or savings and loan associations doing business in this state as "state checking depositories" in which money necessary to meet the current obligations of the state may be deposited in temporary checking accounts. No bank or savings and loan association shall be so designated unless it has an unimpaired capital and surplus of at least one hundred fifty thousand dollars (\$150,000). Not more than twenty percent of all the state's money on hand shall be on deposit in all such checking accounts, including the checking account with the fiscal agent of New Mexico, for any period of time longer than is required to distribute the amount above twenty percent to applying, qualified depository banks or savings and loan associations. The state board of finance shall require a designated state checking depository to furnish surety company bond or securities of the kinds specified by law for the security of deposits of public money in an amount established by the board. Nothing in this section shall prevent a bank or savings and loan association designated as a state checking depository from also qualifying as a state depository pursuant to Chapter 6, Article 10 NMSA 1978, and nothing in this section shall prohibit the state treasurer from transferring to out-of-state banks and keeping on deposit with them funds necessary to pay interest upon and principal of those outstanding bonds, debentures and certificates of indebtedness that, with the interest coupons, were made payable at an out-of-state bank.

G. An authorized bank, savings and loan association or credit union desiring to receive public money deposits may file with the board of finance having control of the money its written proposal to receive the money on deposit, together with its agreement to pay interest on daily balances of the deposits at the rate of interest fixed by the state board of finance as prescribed in Section 6-10-30 NMSA 1978. The proposal shall specify whether the deposit is desired as a time deposit. The board of finance shall, at its next meeting after receipt of the proposal, consider the proposal, and, if it is in accordance with Chapter 6, Article 10 NMSA 1978, the board shall thereupon notify the bank or savings and loan association that upon its furnishing security as provided, it will be designated as a "state depository" of public money in an amount to be fixed by the board, which amount shall not exceed seventy-five percent of the capital and surplus of the applicant bank or savings and loan association if the deposit is secured by surety bond. If, after considering the proposal of a credit union and finding it in accordance with Section 6-10-36 NMSA 1978, the board of finance may designate the credit union a "state depository" of public money in an amount to be fixed by the board, which shall not exceed that amount insured by an agency of the United States. Upon furnishing proper bond or other security authorized by Chapter 6, Article 10 NMSA 1978, a certificate shall be issued to the bank or savings and loan association by the board of finance qualifying it as a depository of public money; and, if designated,

a certificate shall be issued to a credit union qualifying it as a depository of public money; provided that a bank located outside the state, acting solely in the capacity of a paying bank for the purpose of paying interest upon and principal of state obligations represented by bonds, debentures and certificates of indebtedness and attached interest coupons, is not required to furnish collateral security in excess of one hundred thousand dollars (\$100,000) regardless of the amount of state public money on deposit."

Chapter 14 Section 8 Laws 2010

Section 8. TEMPORARY PROVISIONS--TRANSITION MEMBERSHIP OF STATE INVESTMENT COUNCIL.--

A. On the effective date of this act, the state investment officer is no longer a member of the state investment council.

B. On the effective date of this act, the three public members serving on the state investment council the day before the effective date of this act are no longer members of the state investment council.

C. Within thirty days of the effective day of the act, four members shall be appointed to the state investment council by the New Mexico legislative council pursuant to Paragraph (6) of Subsection A of Section 6-8-2 NMSA 1978 and shall serve on an interim basis until confirmed by the senate.

D. Within thirty days of the effective date of this act, two members shall be appointed to the state investment council by the governor pursuant to Paragraph (7) of Subsection A of Section 6-8-2 NMSA 1978 and shall serve on an interim basis until confirmed by the senate.

E. The four members appointed pursuant to Subsection C of this section and the two members appointed pursuant to Subsection D of this section shall, by lot, determine the initial terms of office for each position so that one position will be for a term of one year, one position will be for a term of two years, two positions will be for terms of three years, one position will be for a term of four years and one position will be for a term of five years. Thereafter, the terms shall be for five years.

Chapter 14 Section 9 Laws 2010

Section 9. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

Approved March 1, 2010

LAWS 2010, CHAPTER 15

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF CHAPTER 67, ARTICLE 3 NMSA 1978 TO INCREASE THE ALLOWABLE TERM OF A GASOLINE TAX SHARING AGREEMENT FROM TEN TO TWENTY YEARS.

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

Chapter 15 Section 1 Laws 2010

Section 1. Section 67-3-8.1 NMSA 1978 (being Laws 2003, Chapter 150, Section 3, as amended) is amended to read:

"67-3-8.1. SECRETARY--AUTHORITY TO ENTER INTO INTERGOVERNMENTAL AGREEMENT--GASOLINE TAX SHARING AGREEMENT--QUALIFIED TRIBE.--

A. The secretary may enter into an intergovernmental agreement that may be referred to as a "gasoline tax sharing agreement" with a qualified tribe to receive forty percent of the gasoline tax revenue paid on two million five hundred thousand gallons of gasoline each month in exchange for the qualified tribe's agreement that the qualified tribe or a registered Indian tribal distributor owned by the qualified tribe shall not:

(1) distribute gasoline for resale outside of the boundaries of that registered Indian tribal distributor's Indian reservation, pueblo grant or trust land located in New Mexico; and

(2) claim all or part of the deduction authorized in Subsection F of Section 7-13-4 NMSA 1978.

B. The term of a gasoline tax sharing agreement entered into pursuant to this section shall be for a period of up to twenty years. The secretary and a qualified tribe with a gasoline tax sharing agreement shall report, at the midpoint of the term of the agreement, to the legislative finance committee and to the revenue stabilization and tax policy committee on the status of the agreement.

C. A gasoline tax sharing agreement entered into pursuant to this section shall be construed solely as an agreement between the two party governments and shall not alter or affect the government-to-government relations between the state and any other tribe.

D. Nothing in this section or in a gasoline tax sharing agreement entered into pursuant to this section shall be construed as creating rights in a third party.

E. Copies of gasoline tax sharing agreements shall be promptly transmitted to the secretary upon signing by the representatives of the governments that are parties to the agreement.

F. As used in this section:

(1) "qualified tribe" means the Pueblo of Nambe or the Pueblo of Santo Domingo, as long as it owns one hundred percent of a registered Indian tribal distributor pursuant to the Gasoline Tax Act, that qualifies for a deduction pursuant to Subsection F of Section 7-13-4 NMSA 1978; and

(2) "tribe" means an Indian nation, tribe or pueblo located in New Mexico."

Senate Bill 59, aa

Approved March 2, 2010

LAWS 2010, CHAPTER 16

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; AMENDING REQUIREMENTS FOR SECURITIES PURCHASED BY THE AUTHORITY.

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

Chapter 16 Section 1 Laws 2010

Section 1. Section 6-21-10 NMSA 1978 (being Laws 1992, Chapter 61, Section 10, as amended) is amended to read:

"6-21-10. PURCHASES IN NAME OF AUTHORITY--DOCUMENTATION.--

A. All tangible and intangible property, real and personal property and securities purchased, held or owned at any time by the authority shall at all times be purchased and held in the name of the authority or may be mortgaged, assigned or otherwise encumbered as security for the repayment of bonds issued by the authority.

B. All securities purchased at any time by the authority, upon delivery to the authority, shall be accompanied by all documentation required by the authority and shall include an approving opinion of recognized bond counsel and certification and guarantee of signatures and disclosure of any pending litigation."

Senate Bill 120, aa

Approved March 2, 2010

LAWS 2010, CHAPTER 17

AN ACT

RELATING TO TAXATION; AMENDING THE AFFORDABLE HOUSING TAX CREDIT ACT; ALLOWING AFFORDABLE HOUSING TAX CREDITS IN COUNTIES WITH POPULATIONS OF ONE HUNDRED THOUSAND OR MORE; EXPANDING ELIGIBILITY FOR INVESTMENT VOUCHERS.

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

Chapter 17 Section 1 Laws 2010

Section 1. Section 7-9I-1 NMSA 1978 (being Laws 2005, Chapter 104, Section 17) is amended to read:

"7-9I-1. SHORT TITLE.--Chapter 7, Article 9I NMSA 1978 may be cited as the "Affordable Housing Tax Credit Act"."

Chapter 17 Section 2 Laws 2010

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

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

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

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

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

D. "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the affordable housing tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes and governmental gross receipts taxes; and

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

Chapter 17 Section 3 Laws 2010

Section 3. Section 7-9I-3 NMSA 1978 (being Laws 2005, Chapter 104, Section 19) is amended to read:

"7-9I-3. INVESTMENT VOUCHERS--ISSUANCE--TRANSFER.--

A. The authority may issue an investment voucher to a person who has made an investment of land, buildings, materials, cash or services for an affordable housing project approved by the authority or for a trust fund administered by the authority. The value of the voucher shall equal fifty percent of the amount of cash invested or the fair market value of the land, buildings, materials or services invested by that person. The authority may approve an investment voucher for any affordable housing project in accordance with Subsection B of this section and in accordance with rules adopted by the authority. An investment voucher that is approved for an affordable housing project shall equal fifty percent of the amount of cash invested or the fair market value of land, buildings, materials or services invested in that affordable housing project by a person upon issuance of that investment voucher.

B. During the calendar year:

(1) beginning on January 1, 2006, the authority may issue or approve investment vouchers in an amount that shall not exceed two hundred thousand dollars (\$200,000) in aggregate value;

(2) beginning on January 1, 2007, the authority may issue or approve investment vouchers in an amount that shall not exceed five hundred thousand dollars (\$500,000) in aggregate value; and

(3) beginning on January 1, 2008 and during each subsequent calendar year, the authority may issue or approve investment vouchers for each

calendar year in an amount that shall not exceed an aggregate value of a base rate of one dollar eighty-five cents (\$1.85) adjusted annually to account for inflation, multiplied by the state population during the calendar year as determined by the United States census bureau.

C. Any limitation on the issuance or approval of investment vouchers for a calendar year pursuant to Subsection B of this section shall not apply to an investment voucher issued by the authority during that calendar year that was approved by the authority during a previous calendar year.

D. At the beginning of each calendar year that begins on or after January 1, 2009, the department shall make an adjustment for inflation pursuant to Paragraph (3) of Subsection B of this section by multiplying the base rate by a fraction, the numerator of which is the consumer price index for the previous calendar year and the denominator of which is the same index for the 2007 calendar year prior to the calendar year for which a maximum aggregate value is determined for the issuance of investment vouchers pursuant to Paragraph (3) of Subsection B of this section.

E. An investment voucher issued by the authority shall be numbered for identification and may be sold, exchanged or otherwise transferred once in whole or in part to one or more persons. The parties to such a transaction shall notify the department and the authority of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

F. The authority shall adopt rules for the approval, issuance and administration of investment vouchers pursuant to this section."

Chapter 17 Section 4 Laws 2010

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 144

Approved March 2, 2010

LAWS 2010, CHAPTER 18

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO CHANGE THE REQUIREMENTS FOR RETURNING TO PUBLIC EMPLOYMENT AFTER RETIREMENT; REQUIRING A WAIT PERIOD BEFORE RETURNING TO WORK; ADDRESSING INDEPENDENT

CONTRACTORS; SUSPENDING A RETIRED MEMBER'S PENSION IF THE RETIRED MEMBER RETURNS TO WORK WITH AN AFFILIATED PUBLIC EMPLOYER; ADDRESSING CONTRIBUTIONS AND SERVICE CREDITS; ELIMINATING CERTAIN EXCEPTIONS FROM THE PENSION SUSPENSION REQUIREMENT; ADDRESSING THE STATUS OF CURRENTLY RETIRED MEMBERS WHO ARE RECEIVING A PENSION AND HAVE RETURNED TO WORK WITH AN AFFILIATED PUBLIC EMPLOYER.

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

Chapter 18 Section 1 Laws 2010

Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

A. A member may retire upon fulfilling the following requirements prior to the selected date of retirement:

(1) a written application for normal retirement, in the form prescribed by the association, is filed with the association;

(2) employment is terminated with all employers covered by any state system or the educational retirement system;

(3) the member selects an effective date of retirement that is the first day of a calendar month; and

(4) the member meets the age and service credit requirement for normal retirement specified in the coverage plan applicable to the member.

B. The amount of normal retirement pension is determined in accordance with the coverage plan applicable to the member.

C. Except as provided in Subsection D of this section, on or after July 1, 2010, a retired member may be subsequently employed by an affiliated public employer only pursuant to the following provisions:

(1) the retired member has not been employed as an employee of an affiliated public employer or retained as an independent contractor by the affiliated public employer from which the retired member retired for at least twelve consecutive months from the date of retirement to the commencement of employment or reemployment with an affiliated public employer;

(2) the retired member's pension shall be suspended upon commencement of the employment;

(3) except as provided in Subsection F of this section, the previously retired member shall not become a member and thus the previously retired member shall accrue no service credit and the previously retired member and that person's affiliated public employer shall make no contributions under any coverage plan pursuant to the Public Employees Retirement Act; and

(4) upon termination of the subsequent employment, the previously retired member's pension shall resume in accordance with the provisions of Subsection A of this section.

D. The provisions of Subsection C of this section do not apply to:

(1) a retired member employed by the legislature for legislative session work; or

(2) a retired member who is elected to serve a term as an elected official; provided that:

(a) the retired member files an irrevocable exemption from membership with the association within thirty days of taking office; and

(b) the irrevocable exemption shall be for the elected official's term of office.

E. A retired member who returns to employment during retirement pursuant to Subsection D of this section is entitled to receive retirement benefits but is not entitled to accrue service credit or to acquire or purchase service credit in the future for the period of the previously retired member's reemployment with an affiliated public employer.

F. At any time during a previously retired member's subsequent employment pursuant to Subsection C of this section, the previously retired member may elect to become a member and the following conditions shall apply:

(1) the previously retired member and the subsequent affiliated public employer shall make the required employee and employer contributions, and the previously retired member shall accrue service credit for the period of subsequent employment; and

(2) when the previously retired member terminates the subsequent employment with an affiliated public employer, the previously retired member shall retire according to the provisions of the Public Employees Retirement Act, subject to the following conditions:

(a) payment of the pension shall resume in accordance with the provisions of Subsection A of this section;

(b) unless the previously retired member accrued at least three years of service credit on account of the subsequent employment, the recalculation of pension shall: 1) employ the form of payment selected by the previously retired member at the time of the first retirement; and 2) use the provisions of the coverage plan applicable to the member on the date of the first retirement; and

(c) the recalculated pension shall not be less than the amount of the suspended pension.

G. A previously retired member who returned to work with an affiliated public employer prior to July 1, 2010 shall be subject to the provisions of this section in effect on the date the previously retired member returned to work; provided that, on and after July 1, 2010, the previously retired member shall pay the employee contribution in an amount specified in the Public Employees Retirement Act for the position in which the previously retired member is employed.

H. The pension of a member who has three or more years of service credit under each of two or more coverage plans shall be determined in accordance with the coverage plan that produces the highest pension. The pension of a member who has service credit under two or more coverage plans but who has three or more years of service credit under only one of those coverage plans shall be determined in accordance with the coverage plan in which the member has three or more years of service credit. If the service credit is acquired under two different coverage plans applied to the same affiliated public employer as a consequence of an election by the members, adoption by the affiliated public employer or a change in the law that results in the application of a coverage plan with a greater pension, the greater pension shall be paid a member retiring from the affiliated public employer under which the change in coverage plan took place regardless of the amount of service credit under the coverage plan producing the greater pension; provided the member has three or more years of continuous employment with that affiliated public employer immediately preceding or immediately preceding and immediately following the date the coverage plan changed. The provisions of each coverage plan for the purpose of this subsection shall be those in effect at the time the member ceased to be covered by the coverage plan. "Service credit", for the purposes of this subsection, shall be only personal service rendered an affiliated public employer and credited to the member under the provisions of Subsection A of Section 10-11-4 NMSA 1978. Service credited under any other provision of the Public Employees Retirement Act shall not be used to satisfy the three-year service credit requirement of this subsection."

Chapter 18 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

SFL/SPAC/Senate Bill 207

Approved March 2, 2010

LAWS 2010, CHAPTER 19

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING A RETIRED MEMBER WITH A ONE-TIME IRREVOCABLE OPTION TO DESELECT A DESIGNATED SURVIVOR PENSION BENEFICIARY.

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

Chapter 19 Section 1 Laws 2010

Section 1. Section 10-11-116 NMSA 1978 (being Laws 1987, Chapter 253, Section 116, as amended) is amended to read:

"10-11-116. ELECTION OF FORM OF PAYMENT OF A PENSION.--

A. Except as otherwise provided in Section 10-11-136 NMSA 1978, a member may elect to have pension payments made under any one of the forms of payment provided in Section 10-11-117 NMSA 1978. The election of form of payment and naming of survivor pension beneficiary shall be made on a form furnished by and filed with the association prior to the date the first pension payment is made. An election of form of payment may not be changed after the date the first pension payment is made. If the member is married, the association shall obtain the consent of the member's spouse to the election of the form of payment and any designation of survivor pension beneficiary before the election or designation is effective. Except as provided in Subsection C or D of this section, a named survivor pension beneficiary may not be changed after the date the first pension payment is made if form of payment B or C is elected. Except as otherwise provided in Section 10-11-136 NMSA 1978, payment shall be made:

(1) under form of payment A if the member is not married at the time of retirement and if there is not a timely election of another form of payment; or

(2) under form of payment C with the member's spouse as survivor pension beneficiary if the member is married at the time of retirement and there is not a timely election of another form of payment.

B. The amount of pension under forms of payment B, C and D shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment A.

C. A retired member who is being paid a pension under form of payment B or C with the member's spouse as the designated survivor pension beneficiary may, upon becoming divorced from the named spouse and subject to an order of a court as provided for in Section 10-11-136 NMSA 1978, elect to have future payments made under form of payment A.

D. A retired member who is being paid a pension under form of payment B or C with a living designated survivor pension beneficiary other than the retired member's spouse or former spouse may exercise a one-time irrevocable option to deselect the designated beneficiary and elect to:

(1) designate another survivor pension beneficiary, provided that:

(a) the retired member shall not have an option to change from the current form of payment; and

(b) the amount of the pension under the form of payment shall be recalculated and shall have the same actuarial present value, computed as of the effective date of the designation, as the amount of pension under form of payment A; or

(2) have future payments made under form of payment A."

House Bill 16, aa

Approved March 2, 2010

LAWS 2010, CHAPTER 20

AN ACT

RELATING TO MINING; PROVIDING FOR AN APPEAL PROCESS FOR PENALTIES FOR FAILURE TO GIVE EMERGENCY NOTICE; PROVIDING FOR A CORRECTION IN A SECTION OF THE MINING SAFETY ACT; CHANGING REQUIREMENTS FOR RECERTIFICATION OF MINE PERSONNEL.

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

Chapter 20 Section 1 Laws 2010

Section 1. Section 69-5-17 NMSA 1978 (being Laws 1933, Chapter 153, Section 23, as amended by Laws 2007, Chapter 301, Section 6 and by Laws 2007, Chapter 302, Section 6) is amended to read:

"69-5-17. FATAL AND SERIOUS MINE ACCIDENTS--ASSISTANCE--
INVESTIGATION--NOTIFICATION--CIVIL PENALTY.--

A. The state mine inspector shall proceed immediately upon notification to the site of any mine accident causing the loss of life or requiring activation of a mine rescue team and shall assist in the rescue of persons within the mine. The state mine inspector shall participate in the accident investigation with any other federal, state and local agency and company representatives.

B. Whenever an accident occurs in or about a mine or the machinery connected to a mine, the operator of the mine shall give notice within thirty minutes of ascertaining the occurrence of the accident to the mine accident emergency operations center at the statewide telephone number established by the state mine inspector stating the particulars of the accident.

C. Nothing in this section shall be construed to relieve the operator of the mine from any reporting or notification requirement under federal law.

D. As used in this section, "accident" means "accident" as provided in 30 C.F.R. 50.2.

E. The state mine inspector shall impose a civil penalty of up to one hundred thousand dollars (\$100,000) on the operator of the mine if it is determined that the operator failed to give immediate notice as required in this section. The inspector may waive imposition of the civil penalty at any time if the inspector finds that the failure to give immediate notice was caused by circumstances outside the control of the operator.

F. The penalties imposed by the state mine inspector for violations of this section shall be derived from criteria-based penalty points. A penalty conversion table developed by the state mine inspector shall serve as a guide for determining penalty assessments.

G. A person who receives a notice of violation that includes a penalty assessment under this section may, within twenty days after receipt of the notice, submit a written petition to the state mine inspector to review the notice. Within sixty days after receipt of the petition, the state mine inspector shall issue a final order upholding, amending or rescinding the notice. Within twenty days after the date of notice of the final order by the state mine inspector, a person who is the subject of the notice may file a written appeal of the order with the mining safety board. The mining safety board shall adopt rules to govern the appeal process."

Chapter 20 Section 2 Laws 2010

Section 2. Section 69-8-5.1 NMSA 1978 (being Laws 1986, Chapter 54, Section 1, as amended) is amended to read:

"69-8-5.1. TRAINING FEES.--The inspector is authorized to charge fees to mining companies for mine safety training given to their personnel. The amount of the training fees shall be arrived at by the inspector after consultation with the board. Fees collected shall be deposited in the state mine inspector fund to assist in the funding of the inspector."

Chapter 20 Section 3 Laws 2010

Section 3. Section 69-14-4 NMSA 1978 (being Laws 1933, Chapter 153, Section 42, as amended by Laws 2007, Chapter 301, Section 17 and by Laws 2007, Chapter 302, Section 17) is amended to read:

"69-14-4. CERTIFICATION PERIOD--RECERTIFICATION--DISCIPLINE--
APPEAL.--

A. Certification for mine personnel shall be issued for a period of five years. All mine personnel certified by the state mine inspector prior to June 15, 2007 shall have their certification period extended five years. Each certified person has the responsibility to notify the state mine inspector of any change in address or change in mine employment within thirty days of the change. Failure to provide current information may result in suspension of certification.

B. Certified persons may apply for recertification within twelve months prior to the end of the certification period. Every certification shall automatically expire on the last day of the certification period if the official has not recertified prior to that date. Recertification will require the applicant to submit an application and appropriate documentation as required by the state mine inspector. The mining safety board shall adopt rules for requirements for recertification.

C. The state mine inspector may refuse to certify or recertify or may suspend or revoke any certification held or applied for under Chapter 69 NMSA 1978 upon grounds that the applicant or certified person:

(1) gave false or forged evidence to the state mine inspector to obtain certification;

(2) is grossly negligent or incompetent in duties as a certified person;

(3) has failed to maintain certification;

(4) has violated or aided or abetted any person in a violation of the Federal Mine Safety and Health Act of 1977 or the state mine safety laws; or

(5) has been disciplined in another state that certifies mine personnel.

D. If the state mine inspector contemplates taking any of the actions in Subsection C of this section for any of the reasons provided in that subsection, the state mine inspector shall provide written notice to the applicant or certified person. The notice shall include a statement that the state mine inspector has sufficient evidence that, if not rebutted or explained, will justify the state mine inspector in taking the contemplated action, that indicates the general nature of the evidence and that provides the applicant or person at least twenty days to submit written evidence to rebut or explain the allegations.

E. If, after the response period ends, the state mine inspector takes any action of a type specified in Subsection C of this section, the state mine inspector shall serve upon the applicant or certified person a written notice of the action containing a statement that the applicant or certified person may file a petition for review with the mining safety board pursuant to the Mining Safety Act."

House Bill 80

Approved March 2, 2010

LAWS 2010, CHAPTER 21

AN ACT

MAKING AN APPROPRIATION TO PROVIDE AN INDIAN LAW INSTITUTE FOR NEW MEXICO LEGISLATORS TO ENABLE THEM TO UNDERSTAND THE FOUNDATIONAL PRINCIPLES OF INDIAN LAW.

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

Chapter 21 Section 1 Laws 2010

Section 1. APPROPRIATION.--Five thousand dollars (\$5,000) is appropriated from the legislative cash balances to the legislative council service for expenditure in fiscal year 2011 to provide an Indian law institute for New Mexico legislators to enable them to understand the foundational principles of Indian law. Any unexpended or unencumbered balance remaining at the end of fiscal year 2011 shall revert to the legislative cash balances.

House Bill 264, aa

Approved March 2, 2010

LAWS 2010, CHAPTER 22

AN ACT

RELATING TO TORTS; EXTENDING ELIGIBILITY FOR LIABILITY COVERAGE TO COMMUNITY LAND GRANTS GOVERNED AS POLITICAL SUBDIVISIONS OF THE STATE.

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

Chapter 22 Section 1 Laws 2010

Section 1. A new section of the Tort Claims Act is enacted to read:

"LIABILITY COVERAGE--CERTAIN COMMUNITY LAND GRANTS.--Notwithstanding the provisions of Paragraph (1) of Subsection A of Section 41-4-25 NMSA 1978 to the contrary, a community land grant governed as a political subdivision of the state upon application to the risk management division of the general services department shall be authorized to purchase coverage for any risk for which immunity has been waived under the Tort Claims Act through the public liability fund, exclusive of coverage of an activity conducted by the community land grant that is determined by the director of the risk management division pursuant to division rules to be a business enterprise."

Senate Bill 94

Approved March 3, 2010

LAWS 2010, CHAPTER 23

AN ACT

RELATING TO THE LEGISLATURE; CREATING THE INTERIM MILITARY AND VETERANS' AFFAIRS COMMITTEE.

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

Chapter 23 Section 1 Laws 2010

Section 1. CREATION OF INTERIM MILITARY AND VETERANS' AFFAIRS COMMITTEE--MEMBERS--APPOINTMENT--TERMS--VOTING.--

A. There is created a joint interim committee of the legislature to be called the "military and veterans' affairs committee". The committee shall be composed of eight voting members.

B. The New Mexico legislative council shall appoint four members from the house of representatives and four members from the senate. At the time of making the appointment, the New Mexico legislative council shall designate the chair and vice chair of the committee. Members shall be appointed so as to give the two major political parties in each house the same proportionate representation on the committee as prevails in each house; provided that in no event shall either of the parties have less than one member from each house on the committee.

C. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

Chapter 23 Section 2 Laws 2010

Section 2. DUTIES OF THE MILITARY AND VETERANS' AFFAIRS COMMITTEE--STAFF--SUBCOMMITTEES--REPORTING.--

A. The military and veterans' affairs committee shall conduct meetings in several geographically dispersed areas of the state and shall conduct hearings related to military issues and veterans' issues. The committee shall make an annual report and recommend any necessary legislation to each session of the legislature. The committee shall request necessary action to the federal congress, the United States department of veterans affairs and the United States department of defense.

B. The staff of the committee shall be provided by the legislative council service.

C. Subcommittees shall be created only by majority vote of all the members appointed to the committee and with the prior approval of the New Mexico legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full committee in advance of the meeting or expenditure, and the approval shall be shown in the minutes of the committee.

Approved March 3, 2010

LAWS 2010, CHAPTER 24

AN ACT

RELATING TO INDIVIDUALS WITH DISABILITIES; CREATING THE DISABILITIES CONCERNS SUBCOMMITTEE AS A PERMANENT SUBCOMMITTEE OF THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE.

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

Chapter 24 Section 1 Laws 2010

Section 1. A new section of Chapter 2, Article 13 NMSA 1978 is enacted to read:

"DISABILITIES CONCERNS SUBCOMMITTEE CREATED--MEMBERSHIP--APPOINTMENT--DUTIES--REPORT.--

A. The "disabilities concerns subcommittee" is created as a permanent subcommittee of the legislative health and human services committee. The subcommittee shall be composed of six members. The New Mexico legislative council shall appoint three members from the house of representatives and three members from the senate. At the time of making the appointments, the legislative council shall designate the chair of the subcommittee. Members shall be appointed so as to give the two major political parties in each house the same proportionate representation on the committee as prevails in each house; provided that in no event shall either of such parties have less than one member from each house on the subcommittee.

B. Members of the disabilities concerns subcommittee may be removed from the subcommittee by the legislative council, at the request of the subcommittee chair, for nonattendance according to legislative council policy. Vacancies on the subcommittee, however caused, may be filled by the legislative council, or the legislative council may reduce the size of the subcommittee by not making replacement appointments and, in such case, need not readjust party representation. No action shall be taken by the subcommittee if a majority of the total membership from either house on the subcommittee rejects such action.

C. The disabilities concerns subcommittee shall conduct a continuing study of the programs, agencies, policies, issues and needs relating to individuals with disabilities, including review and study of the statutes, constitutional provisions, regulations and court decisions governing these programs, agencies and issues. The subcommittee shall also study the full continuum of programs and services available and needed for individuals with disabilities.

D. By October 1 of each year, the subcommittee shall make a report of its findings and recommendations and recommend any necessary legislation to the legislative health and human services committee."

Senate Bill 264

Approved March 3, 2010

LAWS 2010, CHAPTER 25

AN ACT

RELATING TO PUBLIC SCHOOLS; ALLOWING FINANCIAL LITERACY THAT MEETS STATE STANDARDS TO QUALIFY FOR ONE OF THE FOUR REQUIRED MATHEMATICS UNITS FOR STUDENTS BEGINNING NINTH GRADE IN 2009-2010; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009.

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

Chapter 25 Section 1 Laws 2010

Section 1. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended by Laws 2009, Chapter 256, Section 1 and by Laws 2009, Chapter 267, Section 2 and also by Laws 2009, Chapter 268, Section 1) is amended to read:

"22-13-1.1. GRADUATION REQUIREMENTS.--

A. At the end of grades eight through eleven, each student shall prepare an interim next-step plan that sets forth the coursework for the grades remaining until high school graduation. Each year's plan shall explain any differences from previous interim next-step plans, shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

B. Each student must complete a final next-step plan during the senior year and prior to graduation. The plan shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

C. An individualized education program that meets the requirements of Subsections A and B of this section and that meets all applicable transition and procedural requirements of the federal Individuals with Disabilities Education Act for a

student with a disability shall satisfy the next-step plan requirements of this section for that student.

D. A local school board shall ensure that each high school student has the opportunity to develop a next-step plan based on reports of college and workplace readiness assessments, as available, and other factors and is reasonably informed about:

(1) curricular and course options, including honors or advanced placement courses, dual-credit courses, distance learning courses, career clusters, pre-apprenticeship programs or remediation programs that the college and workplace readiness assessments indicate to be appropriate;

(2) opportunities available that lead to different post-high-school options; and

(3) alternative opportunities available if the student does not finish a planned curriculum.

E. The secretary shall:

(1) establish specific accountability standards for administrators, counselors, teachers and school district staff to ensure that every student has the opportunity to develop a next-step plan;

(2) promulgate rules for accredited private schools in order to ensure substantial compliance with the provisions of this section;

(3) monitor compliance with the requirements of this section; and

(4) compile such information as is necessary to evaluate the success of next-step plans and report annually, by December 15, to the legislative education study committee and the governor.

F. Successful completion of a minimum of twenty-three units aligned to the state academic content and performance standards shall be required for graduation. These units shall be as follows:

(1) four units in English, with major emphasis on grammar and literature;

(2) three units in mathematics, at least one of which is equivalent to the algebra 1 level or higher;

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in

the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

(4) three units in social science, which shall include United States history and geography, world history and geography and government and economics;

(5) one unit in physical education;

(6) one unit in communication skills or business education, with a major emphasis on writing and speaking and that may include a language other than English;

(7) one-half unit in New Mexico history for students entering the ninth grade beginning in the 2005-2006 school year; and

(8) nine elective units and seven and one-half elective units for students entering the ninth grade in the 2005-2006 school year that meet department content and performance standards. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective. Pre-apprenticeship programs may be offered as electives. Media literacy may be offered as an elective.

G. For students entering the ninth grade beginning in the 2009-2010 school year, at least one of the units required for graduation shall be earned as an advanced placement or honors course, a dual-credit course offered in cooperation with an institution of higher education or a distance learning course.

H. The department shall establish a procedure for students to be awarded credit through completion of specified career technical education courses for certain graduation requirements.

I. Successful completion of the requirements of the New Mexico diploma of excellence shall be required for graduation for students entering the ninth grade beginning in the 2009-2010 school year. Successful completion of a minimum of twenty-four units aligned to the state academic content and performance standards shall be required to earn a New Mexico diploma of excellence. These units shall be as follows:

(1) four units in English, with major emphasis on grammar, nonfiction writing and literature;

(2) four units in mathematics, of which one shall be the equivalent to or higher than the level of algebra 2, unless the parent submitted written, signed permission for the student to complete a lesser mathematics unit; and provided that a financial literacy course that meets state mathematics academic content and performance standards shall qualify as one of the four required mathematics units;

(3) three units in science, two of which shall have a laboratory component;

(4) three and one-half units in social science, which shall include United States history and geography, world history and geography, government and economics and one-half unit of New Mexico history;

(5) one unit in physical education;

(6) one unit in one of the following: a career cluster course, workplace readiness or a language other than English; and

(7) seven and one-half elective units that meet department content and performance standards. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective. Pre-apprenticeship programs may be offered as electives. Media literacy may be offered as an elective.

J. Final examinations shall be administered to all students in all classes offered for credit.

K. Until July 1, 2010, a student who has not passed a state graduation examination in the subject areas of reading, English, mathematics, writing, science and social science shall not receive a high school diploma. The state graduation examination on social science shall include a section on the constitution of the United States and the constitution of New Mexico. If a student exits from the school system at the end of grade twelve without having passed a state graduation examination, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student takes and passes the state graduation examination, the student may receive a high school diploma. Any student passing the state graduation examination and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which completion and examination occur.

L. Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule. The standards-based assessments required in Section 22-2C-4 NMSA 1978 may also serve as the assessment required for high school graduation. If a student exits from the school system at the end of grade twelve without having satisfied the requirements of this subsection, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student

exits from the school system the student satisfies the requirement of this subsection, the student may receive a New Mexico diploma of excellence. Any student satisfying the requirements of this subsection and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which all requirements are satisfied.

M. As used in this section:

(1) "final next-step plan" means a next-step plan that shows that the student has committed or intends to commit in the near future to a four-year college or university, a two-year college, a trade or vocational program, an internship or apprenticeship, military service or a job;

(2) "interim next-step plan" means an annual next-step plan in which the student specifies post-high-school goals and sets forth the coursework that will allow the student to achieve those goals; and

(3) "next-step plan" means an annual personal written plan of studies developed by a student in a public school or other state-supported school or institution in consultation with the student's parent and school counselor or other school official charged with coursework planning for the student that includes one or more of the following:

(a) advanced placement or honors courses;

(b) dual-credit courses offered in cooperation with an institution of higher education;

(c) distance learning courses;

(d) career-technical courses; and

(e) pre-apprenticeship programs.

N. The secretary may establish a policy to provide for administrative interpretations to clarify curricular and testing provisions of the Public School Code."

House Bill 53, aa

Approved March 3, 2010

LAWS 2010, CHAPTER 26

AN ACT

RELATING TO HEALTH; REQUIRING A DISTRICT ATTORNEY TO PETITION FOR A HUMAN IMMUNODEFICIENCY VIRUS TEST ON A PERSON CHARGED WITH OR CONVICTED OF CERTAIN SEX OFFENSES UPON THE REQUEST OF THE VICTIM; PROVIDING THAT THE TEST BE PERFORMED WITHIN FORTY-EIGHT HOURS FROM THE DATE OF THE COURT ORDER.

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

Chapter 26 Section 1 Laws 2010

Section 1. Section 24-2B-5.1 NMSA 1978 (being Laws 1993, Chapter 107, Section 3) is amended to read:

"24-2B-5.1. INFORMED CONSENT NOT REQUIRED--TESTING OF PERSONS CONVICTED OF CERTAIN CRIMINAL OFFENSES--RESPONSIBILITY TO ADMINISTER AND PAY FOR TEST.--

A. A test designed to identify the human immunodeficiency virus or its antigen or antibody may be performed, without the offender's consent, on an offender convicted pursuant to state law of any criminal offense:

- (1) involving contact between the penis and vulva;
- (2) involving contact between the penis and anus;
- (3) involving contact between the mouth and penis;
- (4) involving contact between the mouth and vulva;
- (5) involving contact between the mouth and anus; or

(6) when the court determines from the facts of the case that there was a transmission or likelihood of transmission of blood, semen or vaginal secretions from the offender to the victim.

B. If consent to perform a test on an offender cannot be obtained pursuant to the provisions of Section 24-2B-2 or 24-2B-3 NMSA 1978, the district attorney or other prosecutorial authority shall, upon the request of the victim of a criminal offense described in Subsection A of this section, petition the court to order that a test be performed on the offender not later than forty-eight hours from the date of the court order. If the victim of the criminal offense is a minor or incompetent, the parent or legal guardian of the victim may request the district attorney or other prosecutorial authority to petition the court to order that a test be performed on the offender. The petition and all proceedings in connection with the petition shall be under seal. The results of the test

shall be disclosed as soon as practicable and only to the offender and to the victim or the victim's parent or legal guardian. If the offender has a positive test result, both the offender and victim shall be provided with counseling, as described in Section 24-2B-4 NMSA 1978.

C. If the offender is sentenced to imprisonment in a state corrections facility, the court's order shall direct the department of health to be responsible for the administration of and payment for the test and the lawful distribution of the test results.

D. If the offender is convicted of a misdemeanor or petty misdemeanor offense or is convicted of a felony offense that is suspended or deferred, the court's order shall direct the department of health to be responsible for the administration of and payment for the test and the lawful distribution of the test results.

E. If the offender is a minor adjudicated as a delinquent child pursuant to the provisions of the Children's Code and the court transfers legal custody of the minor to the children, youth and families department, the court's order shall direct the children, youth and families department to be responsible for the administration of and payment for the test and the lawful distribution of the test results.

F. If the offender is a minor adjudicated as a delinquent child pursuant to the provisions of the Children's Code and the court does not transfer legal custody of the minor to the children, youth and families department, the court's order shall direct the department of health to be responsible for the administration of and payment for the test and the lawful distribution of the test results."

Chapter 26 Section 2 Laws 2010

Section 2. Section 24-2B-5.2 NMSA 1978 (being Laws 1996, Chapter 80, Section 8) is amended to read:

"24-2B-5.2. INFORMED CONSENT NOT REQUIRED--TESTING OF PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING CERTAIN CRIMINAL OFFENSES--RESPONSIBILITY TO ADMINISTER AND PAY FOR TEST.--

A. A test designed to identify the human immunodeficiency virus or its antigen or antibody may be performed, without the person's consent, on a person upon the filing of a complaint, information or an indictment alleging that the person committed a state criminal offense:

- (1) involving contact between the penis and vulva;
- (2) involving contact between the penis and anus;
- (3) involving contact between the mouth and penis;

(4) involving contact between the mouth and vulva; or

(5) involving contact between the mouth and anus.

B. If consent to perform a test on an alleged offender cannot be obtained pursuant to the provisions of Section 24-2B-2 or 24-2B-3 NMSA 1978, the district attorney or other prosecutorial authority shall, upon the request of the victim of the alleged criminal offense described in Subsection A of this section, petition the court to order that a test be performed on the alleged offender not later than forty-eight hours from the date of the court order; provided that the same test is first performed on the victim of the alleged criminal offense. If the victim of the alleged criminal offense is a minor or incompetent, the parent or legal guardian of the victim of the alleged criminal offense may request the district attorney or other prosecutorial authority to petition the court to order that a test be performed on the alleged offender. The test may be performed on the alleged offender regardless of the result of the test performed on the victim of the alleged offense.

C. The court may issue an order based on a finding of good cause after a hearing at which both the victim of the alleged criminal offense and the alleged offender have the right to be present. During the hearing, only affidavits, counter affidavits and medical reports regarding the facts that support or rebut the issuance of an order shall be admissible. The hearing shall be conducted within seventy-two hours after the district attorney or other prosecutorial authority petitions the court for the order. The petition and all proceedings in connection therewith shall be under seal.

D. The results of the test shall be disclosed as soon as practicable and only to the alleged offender and to the victim of the alleged criminal offense or the victim's parent or legal guardian. When the victim of the alleged criminal offense or the alleged offender has a positive test result, both the alleged offender and the victim of the alleged criminal offense shall be provided with counseling, as described in Section 24-2B-4 NMSA 1978.

E. The court's order shall direct the department of health to be responsible for the administration of and payment for the test and the lawful distribution of the test results.

F. A prosecuting attorney may not use in a criminal proceeding arising out of the alleged criminal offense the fact that a test was administered to the alleged offender or the results of the test.

G. The provisions of this section shall not affect the rights and remedies available to the victim of the alleged criminal offense and alleged offender in any civil action.

H. The administration of a test to an alleged offender pursuant to the provisions of this section shall not preclude the subsequent administration of follow-up tests pursuant to the provisions of Section 24-2B-5.1 NMSA 1978."

House Bill 63

Approved March 3, 2010

LAWS 2010, CHAPTER 27

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING SECTIONS OF THE HAZARDOUS WASTE ACT AND THE GROUND WATER PROTECTION ACT TO CLARIFY DEFINITIONS OF STORAGE TANKS AND TO PROVIDE FOR COMPLIANCE WITH THE FEDERAL ENERGY POLICY ACT OF 2005.

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

Chapter 27 Section 1 Laws 2010

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, regulated under the federal Natural Gas Pipeline Safety Act of 1968 or the federal Hazardous Liquid Pipeline Safety Act of 1979 or that is an intrastate pipeline facility regulated under state laws comparable to either act;

(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 their 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 such 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 printing 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 but not limited to 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. "transporter" means a person engaged in the movement of hazardous waste, not including movement at the site of generation, disposal, treatment or storage;

T. "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;

U. "underground storage tank" means a single tank or combination of tanks, including underground pipes connected thereto, that are 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 the federal Natural Gas Pipeline Safety Act of 1968 or the federal Hazardous Liquid Pipeline Safety Act of 1979 or that is an intrastate pipeline facility regulated under state laws comparable to either act;

(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

V. "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 27 Section 2 Laws 2010

Section 2. Section 74-4-4 NMSA 1978 (being Laws 1977, Chapter 313, Section 4, as amended) is amended to read:

"74-4-4. DUTIES AND POWERS OF THE BOARD.--

A. The board shall adopt rules for the management of hazardous waste, as may be necessary to protect public health and the environment, that are equivalent to and no more stringent than federal regulations adopted by the federal environmental

protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended:

(1) for the identification and listing of hazardous wastes, taking into account toxicity, persistence and degradability, potential for accumulation in tissue and other related factors, including flammability, corrosiveness and other hazardous characteristics; provided that, except as authorized by Sections 74-4-3.3 and 74-8-2 NMSA 1978, the board shall not identify or list any solid waste or combination of solid wastes as a hazardous waste that has not been listed and designated as a hazardous waste by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended;

(2) establishing standards applicable to generators identified or listed under this subsection, including requirements for:

(a) furnishing information on the location and description of the generator's facility and on the production or energy recovery activity occurring at that facility;

(b) recordkeeping practices that accurately identify the quantities of hazardous waste generated, the constituents of the waste that are significant in quantity or in potential harm to human health or the environment and the disposition of the waste;

(c) labeling practices for any containers used for the storage, transport or disposal of the hazardous waste that will identify accurately the waste;

(d) use of safe containers tested for safe storage and transportation of the hazardous waste;

(e) furnishing the information on the general chemical composition of the hazardous waste to persons transporting, treating, storing or disposing of the waste;

(f) implementation of programs to reduce the volume or quantity and toxicity of the hazardous waste generated;

(g) submission of reports to the secretary at such times as the secretary deems necessary, setting out the quantities of hazardous waste identified or listed pursuant to the Hazardous Waste Act that the generator has generated during a particular time period and the disposition of all hazardous waste reported, the efforts undertaken during a particular time period to reduce the volume and toxicity of waste generated and the changes in volume and toxicity of waste actually achieved during a particular time period in comparison with previous time periods; and

(h) the use of a manifest system and any other reasonable means necessary to assure that all hazardous waste generated is designated for treatment, storage or disposal in, and arrives at, treatment, storage or disposal facilities, other than facilities on the premises where the waste is generated, for which a permit has been issued pursuant to the Hazardous Waste Act; that the generator of hazardous waste has a program in place to reduce the volume or quality and toxicity of waste to the degree determined by the generator to be economically practicable and that the proposed method of treatment, storage or disposal is that practicable method currently available to the generator that minimizes the present and future threat to human health and the environment;

(3) establishing standards applicable to transporters of hazardous waste identified or listed under this subsection or of fuel produced from any such hazardous waste or of fuel from such waste and any other material, as may be necessary to protect human health and the environment, including but not limited to requirements for:

(a) recordkeeping concerning the hazardous waste transported and its source and delivery points;

(b) transportation of the hazardous waste only if properly labeled;

(c) compliance with the manifest system referred to in Subparagraph (h) of Paragraph (2) of this subsection; and

(d) transportation of all the hazardous waste only to the hazardous waste treatment, storage or disposal facility that the shipper designates on the manifest form to be a facility holding a permit issued pursuant to the Hazardous Waste Act or the federal Resource Conservation and Recovery Act of 1976, as amended;

(4) establishing standards applicable to distributors or marketers of any fuel produced from hazardous waste, or any fuel that contains hazardous waste, for:

(a) furnishing the information stating the location and general description of the facility; and

(b) furnishing the information describing the production or energy recovery activity carried out at the facility;

(5) establishing performance standards as may be necessary to protect human health and the environment applicable to owners and operators of facilities for the treatment, storage or disposal of hazardous waste identified or listed

under this section, distinguishing, where appropriate, between new facilities and facilities in existence on the date of promulgation, including requirements for:

(a) maintaining the records of all hazardous waste identified or listed under this subsection that is treated, stored or disposed of, as the case may be, and the manner in which the waste was treated, stored or disposed of;

(b) satisfactory reporting, monitoring, inspection and compliance with the manifest system referred to in Subparagraph (h) of Paragraph (2) of this subsection;

(c) treatment, storage or disposal of all such waste and any liquid that is not a hazardous waste, except with respect to underground injection control into deep injection wells, received by the facility pursuant to such operating methods, techniques and practices as may be satisfactory to the secretary;

(d) location, design and construction of hazardous waste treatment, disposal or storage facilities;

(e) contingency plans for effective action to minimize unanticipated damage from any treatment, storage or disposal of any hazardous waste;

(f) maintenance and operation of the facilities and requiring any additional qualifications as to ownership, continuity of operation, training for personnel and financial responsibility, including financial responsibility for corrective action, as may be necessary or desirable;

(g) compliance with the requirements of Paragraph (6) of this subsection respecting permits for treatment, storage or disposal;

(h) the taking of corrective action for all releases of hazardous waste or constituents from a solid waste management unit at a treatment, storage or disposal facility, regardless of the time at which waste was placed in the unit; and

(i) the taking of corrective action beyond a facility's boundaries where necessary to protect human health and the environment unless the owner or operator of that facility demonstrates to the satisfaction of the secretary that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. Rules adopted and promulgated under this subparagraph shall take effect immediately and shall apply to all facilities operating under permits issued under Paragraph (6) of this subsection and to all landfills, surface impoundments and waste pile units, including any new units, replacements of existing units or lateral expansions of existing units, that receive hazardous waste after July 26, 1982. No private entity shall be precluded by reason of criteria established under Subparagraph (f) of this paragraph from the ownership or

operation of facilities providing hazardous waste treatment, storage or disposal services where the entity can provide assurance of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage or disposal of specified hazardous waste;

(6) requiring each person owning or operating, or both, an existing facility or planning to construct a new facility for the treatment, storage or disposal of hazardous waste identified or listed under this subsection to have a permit issued pursuant to requirements established by the board;

(7) establishing procedures for the issuance, suspension, revocation and modification of permits issued under Paragraph (6) of this subsection, which rules shall provide for public notice, public comment and an opportunity for a hearing prior to the issuance, suspension, revocation or major modification of any permit unless otherwise provided in the Hazardous Waste Act;

(8) defining major and minor modifications; and

(9) establishing procedures for the inspection of facilities for the treatment, storage and disposal of hazardous waste that govern the minimum frequency and manner of the inspections, the manner in which records of the inspections shall be maintained and the manner in which reports of the inspections shall be filed; provided, however, that inspections of permitted facilities shall occur no less often than every two years.

B. The board shall adopt rules:

(1) concerning hazardous substance incidents; and

(2) requiring notification to the department of any hazardous substance incidents.

C. The board shall adopt rules concerning storage tanks as may be necessary to protect public health and the environment and that, in the case of underground storage tanks, are equivalent to and no more stringent than federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended.

D. The board shall adopt rules concerning storage tanks that implement the federal Energy Policy Act of 2005, Pub. L. 109-58, as amended, and that are equivalent to and no more stringent than the Energy Policy Act and its grant guidelines and regulations.

E. Rules adopted pursuant to this section shall include:

(1) standards for the installation, operation, maintenance, repair and replacement of storage tanks;

(2) requirements for financial responsibility;

(3) standards for inventory control;

(4) standards for the detection of leaks from and the integrity-testing and monitoring of storage tanks;

(5) standards for the closure and dismantling of storage tanks;

(6) requirements for recordkeeping;

(7) requirements for the reporting, containment and remediation of all leaks from any storage tanks; and

(8) criteria and procedures for classifying a storage tank facility as ineligible, and reclassifying a storage tank facility as eligible, for the delivery, deposit, acceptance or sale of petroleum products.

F. The criteria and procedures adopted by the board pursuant to this section shall require the department to classify a storage tank facility as ineligible for delivery, deposit, acceptance or sale of petroleum products if the storage tank facility has not installed required equipment for spill prevention, overfill protection, leak detection or corrosion protection, including required corrosion protection equipment for a buried metal flexible connector.

G. The criteria and procedures adopted by the board pursuant to this section may allow the department to classify a storage tank facility as ineligible for delivery, deposit, acceptance or sale of petroleum products when the owner or operator has failed to comply with a written warning within a reasonable period of time and the warning concerns:

(1) improper operation or maintenance of required equipment for spill prevention, overfill protection, leak detection or corrosion protection;

(2) failure to maintain required financial responsibility for corrective action; or

(3) operation of the storage tank facility in a manner that creates an imminent threat to the public health and the environment.

H. Rules adopted by the board pursuant to this section shall defer classifying a storage tank facility as ineligible for delivery, deposit, acceptance or sale of

petroleum products if the ineligible classification would jeopardize the availability of, or access to, motor fuel in any rural and remote areas.

I. Rules adopted by the board pursuant to this section shall allow the department to authorize delivery or deposit of petroleum products to:

(1) an emergency generator tank that is otherwise ineligible for delivery or deposit if a commercial power failure or other declared state of emergency exists and the emergency generator tank provides power supply, stores petroleum and is used solely in connection with an emergency system, legally required standby system or optional standby system; or

(2) a storage tank facility that is otherwise ineligible for delivery or deposit if the delivery or deposit is necessary to test or calibrate a tank.

J. Notwithstanding the provisions of Subsection A of this section, the board may adopt rules for the management of hazardous waste and hazardous waste transformation that are more stringent than federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended, if the board determines, after notice and public hearing, that such federal regulations are not sufficient to protect public health and the environment. As used in this subsection, "transformation" means incineration, pyrolysis, distillation, gasification or biological conversion other than composting.

K. The board shall adopt rules concerning the management of used oil that are equivalent to and no more stringent than federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended.

L. In the event the board wishes to adopt rules that are identical with regulations adopted by an agency of the federal government, the board, after notice and hearing, may adopt such rules by reference to the federal regulations without setting forth the provisions of the federal regulations."

Chapter 27 Section 3 Laws 2010

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 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. 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 are regulated under the federal Natural Gas Pipeline Safety Act of 1968 or the federal Hazardous Liquid Pipeline Safety Act of 1979 or that is an intrastate pipeline facility regulated under state laws comparable to either act;

(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 their 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 combination of tanks, including underground pipes connected thereto, that are 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, regulated under the federal Natural Gas Pipeline Safety Act of 1968 or the federal Hazardous Liquid Pipeline Safety Act of 1979 or that is an intrastate pipeline facility regulated under state laws comparable to either act;

(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."

House Bill 81, aa

Approved March 3, 2010

LAWS 2010, CHAPTER 28

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR THE PURCHASE, STORAGE, CUSTODY, DISPOSAL AND MAINTENANCE OF VOTING SYSTEM RECORDS FOR VOTING SYSTEMS PURCHASED IN 2006 AND AFTER; PROVIDING FOR CERTIFICATION PROCEDURES FOR VOTING SYSTEMS; CREATING A VOTING SYSTEM CERTIFICATION COMMITTEE; PROVIDING FOR VOTING SYSTEM STANDARDS; AMENDING, REPEALING, RECOMPILING AND ENACTING SECTIONS OF THE ELECTION CODE; DECLARING AN EMERGENCY.

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

Chapter 28 Section 1 Laws 2010

Section 1. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS RECORDS.--For each certified voting system purchased in 2006 and after, including any separate component, the secretary of state shall maintain records of the voting system and any component, including:

- A. a description of each voting system and any of its components;
- B. its serial number or other identification number;
- C. the name of the vendor, the titleholder and the acquisition date;
- D. its cost;
- E. the percentage of federal participation covering the cost of acquisition;
- F. its location, use and condition; and
- G. its ultimate disposition, including the date of disposal and sale price."

Chapter 28 Section 2 Laws 2010

Section 2. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--AUTHORITY OF THE SECRETARY OF STATE TO RECERTIFY AND DECERTIFY.--

A. Each voting system certified for use in the state shall be reviewed for recertification by the secretary of state during the year following a presidential election. Tests and inspections conducted pursuant to this section shall begin no later than June 1 and shall follow the procedures in Section 1-9-14 NMSA 1978.

B. If at any time the secretary of state becomes aware that a voting system certified for use in this state does not comply with all requirements in the Election Code or meet federal election standards, the secretary of state shall undertake an investigation to determine if the voting system should continue to be certified for use in the state. Tests and inspections conducted pursuant to this section shall commence upon the order of the secretary of state and shall follow the procedures in Section 1-9-14 NMSA 1978. A voting system that does not comply with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted by the United States election assistance commission shall be decertified for use in this state."

Chapter 28 Section 3 Laws 2010

Section 3. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--VOTING SYSTEM CERTIFICATION COMMITTEE--MEMBERS.--

A. The "voting system certification committee" is created. The committee shall review written test reports and the findings of the secretary of state on the certification, recertification and decertification of voting systems for use in elections in the state.

B. The voting system certification committee shall be composed of:

(1) the secretary of information technology or the secretary's designee from within the department of information technology; and

(2) four additional members as follows:

(a) one member appointed by the president pro tempore of the senate;

(b) one member appointed by the minority leader of the senate;

(c) one member appointed by the speaker of the house of representatives; and

(d) one member appointed by the minority leader of the house of representatives.

C. The four additional members appointed pursuant to Paragraph (2) of Subsection B of this section shall be county clerks or their chief deputies or other persons knowledgeable of elections in this state. Members shall be appointed no later than May 1 of each even-numbered year for terms of two years. Vacancies shall be filled by the original appointing authority.

D. The members of the committee shall select a committee member to serve as chair of the committee. No person who is currently or has been within the previous twelve months an employee or contractor of a voting machine vendor or the office of the secretary of state may serve as a member of the committee. Members of the committee are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act.

E. All meetings of the voting system certification committee shall be open meetings held in accordance with the Open Meetings Act. All reports and other records that are used, created, received, maintained or held by or on behalf of the voting system certification committee shall be open to public inspection pursuant to the Inspection of Public Records Act."

Chapter 28 Section 4 Laws 2010

Section 4. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--STORAGE--CUSTODY AND MAINTENANCE--
AUTHORITY TO ENFORCE.--

A. The secretary of state shall prescribe by rule promulgated pursuant to the provisions of the State Rules Act specifications for the proper storage of voting systems.

B. Voting systems shall be held in the custody of the county that uses the voting systems. All voting systems shall be properly stored pursuant to specifications promulgated by the secretary of state. The board of county commissioners shall be responsible for the costs of properly storing voting systems in custody of the county.

C. The secretary of state may pay from the voting system revolving fund the costs of all hardware, software, firmware, maintenance and support for voting systems, whether state- or county-owned, certified for use in state elections.

D. If the secretary of state becomes aware that state- or county-owned voting systems in the custody of a county are not being stored pursuant to specifications promulgated by the secretary of state, the secretary of state may take action as is deemed appropriate to protect the voting equipment. Such action may include requesting a court to order the county to implement the specifications promulgated by the secretary of state or the secretary of state taking immediate physical control of the voting systems until the county has complied with the storage specifications."

Chapter 28 Section 5 Laws 2010

Section 5. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--TECHNICAL REQUIREMENTS.--Voting systems certified for use in state elections shall:

A. have a unique embedded internal serial number for audit purposes;

B. be supplied with a dust- and moisture-proof cover for transportation and storage purposes;

C. if the net weight of the system, or aggregate of voting device parts, is over twenty pounds, have self-contained wheels so that the system can be easily rolled by one person on rough pavement and can roll through a standard thirty-inch door frame;

D. be a stand-alone, non-networked election system such that all pre-election, election day and post-election events and activities can be recorded and retained in each device;

E. employ scalable technology allowing easy enhancements that meet United States election assistance commission standards and state law;

F. have ancillary equipment, such as printers, power sources, microprocessors and switch and indicator matrices, that is installed internally or is modular and transportable;

G. display publicly the number of ballots processed;

H. be able to print:

(1) an alphanumeric printout of the contests, candidates and vote totals when the polls are opened so that the poll workers can verify that the counters for each candidate are on zero;

(2) an alphanumeric printout of the contests, candidates and vote totals at the close of the polls, which printouts shall contain the system serial number and public counter total; and

(3) as many copies of the alphanumeric printouts as necessary to satisfy state law; and

I. include a feature to allow reports to be sent to an electronic data file."

Chapter 28 Section 6 Laws 2010

Section 6. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--OPERATIONAL REQUIREMENTS.--Voting systems certified for use in state elections shall:

A. have internal application software that is specifically designed and engineered for the election application;

B. include comprehensive diagnostics designed to ensure that failures do not go undetected;

C. have a real-time clock capable of recording and documenting the total time polls are opened; and

D. have a self-contained, internal backup battery that powers all components of the system that are powered by alternating current power; and, in the event of a power outage in the polling place:

(1) the self-contained, internal backup battery power shall engage with no disruption of operation for at least two hours and with no loss of data; and

(2) the system shall maintain all vote totals, public counter totals and the internal clock time in the event that the main power and battery backup power fail."

Chapter 28 Section 7 Laws 2010

Section 7. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--MEMORY--REMOVABLE STORAGE MEDIA DEVICE--REQUIREMENTS.--Voting systems certified for use in state elections shall:

A. be programmable with removable storage media devices;

B. contain ballot control information, summary vote totals, maintenance logs and operator logs on the removable storage media device;

C. ensure that the votes stored on the removable storage media device accurately represent the actual votes cast;

D. be designed so that no executable code can be launched from random access memory;

E. have any operating system software stored in nonvolatile memory, which shall include internal quality checks such as parity or error detection and correction codes, and which software shall include comprehensive diagnostics to ensure that failures do not go undetected;

F. allow for pre-election testing of the ballot control logic and accuracy, with results stored in the memory that is used on election day, and shall be capable of printing a zero-results printout prior to these tests and a results printout after the test;

G. have internal audit trail capability such that all pre-election, election day and post-election events shall be stored, recorded and recovered in an easy-to-read printed form and be retained within memory that does not require external power for memory retention;

H. possess the capability of remote transmission of election results to a central location only by reading the removable storage media devices once they have been removed from the tabulation device after the poll closing sequence has been completed; and

I. prevent data from being altered or destroyed by report generation or by the transmission of results."

Chapter 28 Section 8 Laws 2010

Section 8. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--BALLOT HANDLING AND PROCESSING REQUIREMENTS.--Voting systems certified for use in state elections shall:

A. accept a ballot that is a minimum of six inches wide and a maximum of twenty-four inches long, in dual columns and printed on both sides;

B. accept a ballot in any orientation when inserted by a voter;

C. have the capability to reject a ballot on which a voter has made more than the allowable number of selections in any contest;

D. be designed to accommodate the maximum number of ballot styles or ballot variations encountered in the largest New Mexico election jurisdiction; and

E. be able to read a single ballot with at least four hundred twenty voting positions."

Chapter 28 Section 9 Laws 2010

Section 9. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--SOURCE CODE--ESCROW.--

As a condition of initial certification and continued certification, the source code that operates a voting system shall be placed in escrow and be accessible to the state of

New Mexico in the event the manufacturer ceases to do business or ceases to support the voting system."

Chapter 28 Section 10 Laws 2010

Section 10. Section 1-9-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 184, as amended) is amended to read:

"1-9-1. SECRETARY OF STATE--DUTIES--VOTING SYSTEM DEFINED.--

A. The secretary of state shall study, examine and certify all voting systems used in elections for public office in New Mexico. The secretary of state shall maintain a current list of certified voting systems and copies of filed testing and evaluation reports accessible by the public on the secretary of state's web site. Only voting systems certified by the secretary of state and acquired pursuant to a competitive bid process in accordance with the provisions of the Procurement Code shall be used in any election for public office in New Mexico.

B. As used in Chapter 1, Article 9 NMSA 1978, "voting system" means a combination of mechanical, electromechanical or electronic equipment, including the software and firmware required to program and control the equipment, that is used to cast and count votes; equipment that is not an integral part of a voting system, but that can be used as an adjunct to it, is considered to be a component of the system, including any type of system that is designed to print or mark ballots at a polling location."

Chapter 28 Section 11 Laws 2010

Section 11. Section 1-9-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 188, as amended) is amended to read:

"1-9-5. REQUIREMENT TO USE VOTING SYSTEMS.--

A. Certified voting systems shall be used in all polling locations in all statewide elections.

B. The secretary of state shall provide to the county clerk of each county at least one voting system for use in each polling location in the general and primary elections.

C. The county clerk shall ensure that an adequate number of voting booths are provided to ensure that voters in each polling location may cast their ballots in secret."

Chapter 28 Section 12 Laws 2010

Section 12. Section 1-9-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 190, as amended) is amended to read:

"1-9-7. VOTING SYSTEMS--ACQUISITION.--

A. The secretary of state shall provide to the county clerk of each county a sufficient number of voting systems as required by the Election Code for the conduct of primary and general elections.

B. When authorized by the state board of finance, the board of county commissioners may acquire new or previously owned voting systems. No less than ninety days prior to each primary and general election, the board of county commissioners of each county may make application to the state board of finance for any additional voting systems to be acquired by a county in excess of the number of voting systems required by the Election Code for the conduct of primary and general elections.

C. The additional voting systems shall be of a type certified by the secretary of state. They shall be purchased by the state board of finance. The cost of the voting systems, including all transportation costs, shall be paid out of the voting system revolving fund. The state board of finance shall cause to be delivered to each county clerk the additional voting systems.

D. Except for intercounty acquisitions of equipment approved by the secretary of state, a previously owned voting system shall have a warranty equal to the warranty required of a new voting system."

Chapter 28 Section 13 Laws 2010

Section 13. Section 1-9-7.1 NMSA 1978 (being Laws 2005, Chapter 270, Section 56, as amended) is amended to read:

"1-9-7.1. VOTING SYSTEM--USE OF PAPER BALLOT.--

A. All voting systems used in elections covered by the Election Code shall use a paper ballot on which the voter physically or electronically marks the voter's choices on the ballot itself.

B. The secretary of state shall purchase the paper ballots for all counties to use for primary and general elections. If a system designed to print ballots at a polling location is certified and the voting system certification committee finds that its use in a polling place would result in cost savings, the secretary of state shall acquire such systems and paper ballot stock in lieu of fully preprinted paper ballots for those polling places where cost savings would be realized.

C. The paper ballot shall be used in a recount proceeding, and in case of a discrepancy, the paper ballot shall be considered the true and correct record of the voter's choices."

Chapter 28 Section 14 Laws 2010

Section 14. Section 1-9-7.2 NMSA 1978 (being Laws 2005, Chapter 270, Section 57) is amended to read:

"1-9-7.2. VOTING SYSTEMS--TESTING OF PREVIOUSLY CERTIFIED SYSTEMS.--The secretary of state may voluntarily test and certify voting systems without an application by the manufacturer if the system has been previously certified by the United States election assistance commission. Tests and inspections conducted pursuant to this section shall follow the procedures in Section 1-9-14 NMSA 1978 and shall be completed within six months of the date on which the secretary of state orders testing to begin; provided, however, if the manufacturer has not applied for certification of that voting system, the manufacturer shall not be required to pay for the costs of testing and certification."

Chapter 28 Section 15 Laws 2010

Section 15. Section 1-9-12 NMSA 1978 (being Laws 1975, Chapter 255, Section 120, as amended) is amended to read:

"1-9-12. CARE AND CUSTODY OF REMOVABLE STORAGE MEDIA DEVICES--RESPONSIBILITY FOR TRANSPORTATION OF VOTING SYSTEMS--RESPONSIBILITY FOR SECURITY AND PROGRAMMING--CHARGE FOR SUCH TRANSPORTATION OR PROGRAMMING.--

A. The county clerk shall be responsible for transporting all voting systems to and from polling places.

B. The county clerk shall have care and custody of and be responsible for the removable storage media devices for all voting systems in the custody of the county and shall be responsible for the programming of the systems.

C. When voting systems are used in any election, the county clerk shall assure the security of the removable storage media devices at all times during the period the voting systems are being programmed and until the votes recorded on the removable storage media devices are cleared pursuant to Section 1-13-21 NMSA 1978. The county clerk may give written authorization in advance to program the removable storage media devices outside of the county seat, and a copy of the authorization with the programmer named therein shall be kept on file in the county clerk's office subject to public inspection.

D. Failure of the county clerk to assure the security of voting system removable storage media devices in the county clerk's custody shall constitute a neglect to discharge the duties of the clerk's office.

E. A reasonable fee may be charged by the county for the transportation and programming of the voting systems when used pursuant to Section 1-9-6 NMSA 1978, but in no case shall such fee exceed the actual cost to the county."

Chapter 28 Section 16 Laws 2010

Section 16. Section 1-9-13 NMSA 1978 (being Laws 1975, Chapter 255, Section 121, as amended) is amended to read:

"1-9-13. VOTING SYSTEM TECHNICIANS.--

A. Voting system technicians shall be trained and certified by the secretary of state as to their adequacy of training and expertise on voting systems certified for use in the state.

B. The secretary of state shall train and recertify voting system technicians prior to each primary election.

C. For purposes of this section, "voting system technician" means any person who is trained and certified to program, inspect, properly store and troubleshoot voting systems.

D. The secretary of state shall adopt rules regulating the scope of training provided to voting system technicians to ensure that voting system warranties are not invalidated and that equipment owned by the state is protected."

Chapter 28 Section 17 Laws 2010

Section 17. Section 1-9-14 NMSA 1978 (being Laws 1983, Chapter 226, Section 1, as amended) is amended to read:

"1-9-14. VOTING SYSTEMS--AUTHORITY OF THE SECRETARY OF STATE TO TEST--CERTIFICATION.--

A. The secretary of state shall provide for the testing and evaluation of voting systems designed for the purpose of recording and tabulating votes within polling places in New Mexico. All voting systems certified for use in the state shall be tested by an independent authority and shall comply with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted by the United States election assistance commission.

B. Any person who has a voting system that is designed for the purpose of recording and tabulating votes within a polling place may apply on or before June 1 of any odd-numbered year to the secretary of state to have the equipment examined and tested for certification. At the time application is made for initial certification, the applicant shall pay for testing each system in an amount that reflects the actual cost of such test. Upon receipt of the application, the secretary of state shall examine and study the voting system to ensure that it complies with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted by the United States election assistance commission. As part of the examination, the secretary of state shall require the system to be independently inspected by persons or testing laboratories technically qualified to evaluate and test the operation and component parts of voting systems and shall require a written report on the results of such testing. The secretary of state may authorize field testing of the equipment in one or more polling places in any state or local government election, provided that such field tests shall be conducted at no cost to the state or any local government. These tests and inspections shall be completed within six months of the date of application.

C. Upon completion of all tests and examination of all written test reports, the secretary of state shall make a written report of the result of the findings and shall file that report, together with the written test reports, in the office of the secretary of state and post them on the secretary of state's web site. The secretary of state shall accept public comment during the twenty-one days following the filing of the written report.

D. Following the period of public comment, the secretary of state shall submit the filed reports and any public comments for consideration by the voting system certification committee. The voting system certification committee shall make recommendations regarding the suitability and reliability of the use of such equipment in the conduct of elections under the Election Code.

E. The voting system certification committee shall recommend that a voting system be certified for use in the state only if it complies with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted by the United States election assistance commission.

F. If the voting system certification committee report finds that the voting system does not comply with all requirements in the Election Code or does not meet federal election standards, the secretary of state shall allow thirty days for an appeal of the findings to be filed or for the deficiencies to be corrected, following which the secretary of state shall report back to the voting system certification committee with a written final report.

G. The voting system certification committee shall reconvene to consider the final report of the secretary of state and shall make final recommendations regarding the suitability and reliability of the use of such equipment in the conduct of elections under the Election Code.

H. If the voting system certification committee recommends that the voting system is suitable for use in elections in New Mexico, within thirty days of receiving the recommendation, the secretary of state shall certify or recertify the equipment for use in elections in this state.

I. If the voting system certification committee does not recommend that the voting system for recording and tabulating votes is suitable for use in elections in New Mexico, within thirty days of receiving the recommendation, the secretary of state shall deny the application or decertify the equipment for use in elections in this state."

Chapter 28 Section 18 Laws 2010

Section 18. Section 1-9-17 NMSA 1978 (being Laws 1985, Chapter 207, Section 16, as amended) is amended to read:

"1-9-17. ADDITIONAL VOTING SYSTEMS--STATE BOARD OF FINANCE--LEASE-PURCHASE CONTRACT--TERMS.--

A. The state board of finance shall execute a lease-purchase contract with the county for purchase of additional voting systems and the necessary support equipment upon receipt of the application of the board of county commissioners pursuant to Section 1-9-7 NMSA 1978.

B. The lease-purchase contract shall include, but not be limited to, the following terms:

(1) the county agrees to purchase from the state board of finance the specified number of voting systems and the necessary support equipment;

(2) the county will pay for the cost of the systems and support equipment, including reimbursement for costs of transportation;

(3) the term of the lease-purchase contract shall not exceed ten years;

(4) the care, custody and proper storage of the systems and support equipment pursuant to specifications issued by the secretary of state is the responsibility of the county clerk; and

(5) upon good cause shown, the terms of the lease-purchase contract may, at any time, be renegotiated."

Chapter 28 Section 19 Laws 2010

Section 19. Section 1-9-17.1 NMSA 1978 (being Laws 2009, Chapter 173, Section 1) is amended to read:

"1-9-17.1. VOTING SYSTEMS--RENEGOTIATION OF LEASE-PURCHASE CONTRACT--DISPOSITION OF VOTING SYSTEMS.--

A. A lease-purchase contract for a voting system entered into between the state board of finance and a county pursuant to Section 1-9-17 NMSA 1978, after a renegotiation pursuant to Paragraph (5) of Subsection B of that section, may include provisions providing that, upon the return of physical control of the voting systems to the state board of finance, the contract shall be terminated and no additional payments from the county shall be due. The state board of finance may dispose of voting systems returned pursuant to this subsection in any manner that is consistent with the interests of the state.

B. Upon application by the board of county commissioners, the secretary of state shall dispose of voting systems and support equipment purchased after January 1, 2007 by the board of county commissioners. The application shall include a provision for the transfer of ownership in the voting systems to the state without fee or compensation to the county."

Chapter 28 Section 20 Laws 2010

Section 20. Section 1-9-19 NMSA 1978 (being Laws 1985, Chapter 207, Section 18, as amended) is amended to read:

"1-9-19. VOTING SYSTEM REVOLVING FUND.--

A. The "voting system revolving fund" is created. The voting system revolving fund may be used:

(1) by the secretary of state to pay for hardware, software, firmware, maintenance and support for voting systems, whether state- or county-owned, certified for use in state elections; and

(2) by the counties to finance, by contract, the purchase of voting systems and necessary support equipment under the conditions stated in Section 1-9-17 NMSA 1978; provided that no expenditure shall be made pursuant to this paragraph if it would result in a fund balance of less than one million dollars (\$1,000,000).

B. The voting system revolving fund may be expended upon vouchers signed by the secretary of finance and administration.

C. If at the end of a fiscal year the voting system revolving fund exceeds six million five hundred thousand dollars (\$6,500,000), the amount in excess of six million five hundred thousand dollars (\$6,500,000) shall revert to the general fund."

Chapter 28 Section 21 Laws 2010

Section 21. TEMPORARY PROVISION--RECOMPILATION.--Section 1-9-4.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 34, as amended) shall be recompiled as part of Chapter 1, Article 1 NMSA 1978.

Chapter 28 Section 22 Laws 2010

Section 22. REPEAL.--Sections 1-9-2, 1-9-4.1, 1-9-8, 1-9-15 and 1-9-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 185, Laws 2001, Chapter 233, Section 15, Laws 1969, Chapter 240, Section 191 and Laws 1985, Chapter 207, Sections 14 and 15, as amended) are repealed.

Chapter 28 Section 23 Laws 2010

Section 23. EFFECTIVE DATE.--The effective date of the provisions of Section 13 of this act is January 1, 2011.

Chapter 28 Section 24 Laws 2010

Section 24. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

H AFC/House Bill 198, aa, w/ec

Approved March 3, 2010

LAWS 2010, CHAPTER 29

AN ACT

RELATING TO THE INTERLOCK DEVICE FUND; PROVIDING THAT THE TRAFFIC SAFETY BUREAU OF THE DEPARTMENT OF TRANSPORTATION SHALL DETERMINE ELIGIBILITY FOR ASSISTANCE FROM THE FUND; PROVIDING A STANDARD FOR INDIGENCY; MODIFYING THE ASSISTANCE PROVIDED FROM THE FUND; REQUIRING CREDIT AT SENTENCING FOR USE OF INTERLOCK DEVICE; INCREASING THE PERCENTAGE OF THE FUND ALLOWABLE FOR ADMINISTRATIVE COSTS.

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

Chapter 29 Section 1 Laws 2010

Section 1. Section 66-8-102 NMSA 1978 (being Laws 1953, Chapter 139, Section 54, as amended) is amended to read:

"66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

A. It is unlawful for a person who is under the influence of intoxicating liquor to drive a vehicle within this state.

B. It is unlawful for a person who is under the influence of any drug to a degree that renders the person incapable of safely driving a vehicle to drive a vehicle within this state.

C. It is unlawful for:

(1) a person to drive a vehicle in this state if the person has an alcohol concentration of eight one hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle; or

(2) a person to drive a commercial motor vehicle in this state if the person has an alcohol concentration of four one hundredths or more in the person's blood or breath within three hours of driving the commercial motor vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle.

D. Aggravated driving under the influence of intoxicating liquor or drugs consists of:

(1) driving a vehicle in this state with an alcohol concentration of sixteen one hundredths or more in the driver's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle;

(2) causing bodily injury to a human being as a result of the unlawful operation of a motor vehicle while driving under the influence of intoxicating liquor or drugs; or

(3) refusing to submit to chemical testing, as provided for in the Implied Consent Act, and in the judgment of the court, based upon evidence of intoxication presented to the court, the driver was under the influence of intoxicating liquor or drugs.

E. A first conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than ninety days or by a fine of not more than five hundred dollars (\$500), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. Upon a first conviction pursuant to this section, an offender shall be sentenced to not less

than twenty-four hours of community service. In addition, the offender may be required to pay a fine of three hundred dollars (\$300). The offender shall be ordered by the court to participate in and complete a screening program described in Subsection K of this section and to attend a driver rehabilitation program for alcohol or drugs, also known as a "DWI school", approved by the bureau and also may be required to participate in other rehabilitative services as the court shall determine to be necessary. In addition to those penalties, when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail. If an offender fails to complete, within a time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or fails to comply with any other condition of probation, the offender shall be sentenced to not less than an additional forty-eight consecutive hours in jail. Any jail sentence imposed pursuant to this subsection for failure to complete, within a time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or for aggravated driving under the influence of intoxicating liquor or drugs shall not be suspended, deferred or taken under advisement. On a first conviction pursuant to this section, any time spent in jail for the offense prior to the conviction for that offense shall be credited to any term of imprisonment fixed by the court. A deferred sentence pursuant to this subsection shall be considered a first conviction for the purpose of determining subsequent convictions.

F. A second or third conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than three hundred sixty-four days or by a fine of not more than one thousand dollars (\$1,000), or both; provided that if the sentence is suspended in whole or in part, the period of probation may extend beyond one year but shall not exceed five years. Notwithstanding any provision of law to the contrary for suspension or deferment of execution of a sentence:

(1) upon a second conviction, an offender shall be sentenced to a jail term of not less than ninety-six consecutive hours, not less than forty-eight hours of community service and a fine of five hundred dollars (\$500). In addition to those penalties, when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than ninety-six consecutive hours. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement; and

(2) upon a third conviction, an offender shall be sentenced to a jail term of not less than thirty consecutive days, not less than ninety-six hours of community service and a fine of seven hundred fifty dollars (\$750). In addition to those penalties, when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than sixty consecutive days. If an offender fails to complete, within a time specified by the

court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional sixty consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement.

G. Upon a fourth conviction pursuant to this section, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of eighteen months, six months of which shall not be suspended, deferred or taken under advisement.

H. Upon a fifth conviction pursuant to this section, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of two years, one year of which shall not be suspended, deferred or taken under advisement.

I. Upon a sixth conviction pursuant to this section, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of thirty months, eighteen months of which shall not be suspended, deferred or taken under advisement.

J. Upon a seventh or subsequent conviction pursuant to this section, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of three years, two years of which shall not be suspended, deferred or taken under advisement.

K. Upon any conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court, an alcohol or drug abuse screening program approved by the department of finance and administration and, if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

L. Upon a second or third conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court:

(1) not less than a twenty-eight-day inpatient, residential or in-custody substance abuse treatment program approved by the court;

(2) not less than a ninety-day outpatient treatment program approved by the court;

(3) a drug court program approved by the court; or

(4) any other substance abuse treatment program approved by the court.

The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

M. Upon a felony conviction pursuant to this section, the corrections department shall provide substance abuse counseling and treatment to the offender in its custody. While the offender is on probation or parole under its supervision, the corrections department shall also provide substance abuse counseling and treatment to the offender or shall require the offender to obtain substance abuse counseling and treatment.

N. Upon a conviction pursuant to this section, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the traffic safety bureau. Unless determined by the bureau to be indigent, the offender shall pay all costs associated with having an ignition interlock device installed on the appropriate motor vehicles. The offender shall operate only those vehicles equipped with ignition interlock devices for:

(1) a period of one year, for a first offender;

(2) a period of two years, for a second conviction pursuant to this section;

(3) a period of three years, for a third conviction pursuant to this section; or

(4) the remainder of the offender's life, for a fourth or subsequent conviction pursuant to this section.

O. Five years from the date of conviction and every five years thereafter, a fourth or subsequent offender may apply to a district court for removal of the ignition interlock device requirement provided in this section and for restoration of a driver's license. A district court may, for good cause shown, remove the ignition interlock device requirement and order restoration of the license; provided that the offender has not been subsequently convicted of driving a motor vehicle under the influence of intoxicating liquor or drugs. Good cause may include an alcohol screening and proof from the interlock vendor that the person has not had violations of the interlock device.

P. An offender who obtains an ignition interlock license and installs an ignition interlock device prior to conviction shall be given credit at sentencing for the time period the ignition interlock device has been in use.

Q. In the case of a first, second or third offense under this section, the magistrate court has concurrent jurisdiction with district courts to try the offender.

R. A conviction pursuant to a municipal or county ordinance in New Mexico or a law of any other jurisdiction, territory or possession of the United States or of a tribe, when that ordinance or law is equivalent to New Mexico law for driving under the influence of intoxicating liquor or drugs, and prescribes penalties for driving under the influence of intoxicating liquor or drugs, shall be deemed to be a conviction pursuant to this section for purposes of determining whether a conviction is a second or subsequent conviction.

S. In addition to any other fine or fee that may be imposed pursuant to the conviction or other disposition of the offense under this section, the court may order the offender to pay the costs of any court-ordered screening and treatment programs.

T. With respect to this section and notwithstanding any provision of law to the contrary, if an offender's sentence was suspended or deferred in whole or in part and the offender violates any condition of probation, the court may impose any sentence that the court could have originally imposed and credit shall not be given for time served by the offender on probation.

U. As used in this section:

(1) "bodily injury" means an injury to a person that is not likely to cause death or great bodily harm to the person, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the person's body; and

(2) "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) has a gross combination weight rating of more than twenty-six thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;

(b) has a gross vehicle weight rating of more than twenty-six thousand pounds;

(c) is designed to transport sixteen or more passengers, including the driver; or

(d) is of any size and is used in the transportation of hazardous materials, which requires the motor vehicle to be placarded under applicable law."

Chapter 29 Section 2 Laws 2010

Section 2. Section 66-8-102.3 NMSA 1978 (being Laws 2002, Chapter 82, Section 2, as amended) is amended to read:

"66-8-102.3. IMPOSING A FEE--INTERLOCK DEVICE FUND CREATED.--

A. A fee is imposed on a person convicted of driving under the influence of intoxicating liquor or drugs in violation of Section 66-8-102 NMSA 1978 or adjudicated as a delinquent on the basis of Subparagraph (a) of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or a person whose driver's license is revoked pursuant to the provisions of the Implied Consent Act, in an amount determined by rule of the traffic safety bureau of the department of transportation not to exceed one hundred dollars (\$100) but not less than fifty dollars (\$50.00) for each year the person is required to operate only vehicles equipped with an ignition interlock device in order to ensure the solvency of the interlock device fund. The fee shall not be imposed on an indigent person.

B. The "interlock device fund" is created in the state treasury. The fee imposed pursuant to Subsection A of this section shall be collected by the motor vehicle division of the taxation and revenue department and deposited in the interlock device fund.

C. All money in the interlock device fund is appropriated to the traffic safety bureau of the department of transportation to cover part of the costs of installing, removing and leasing ignition interlock devices for indigent people who are required, pursuant to convictions under Section 66-8-102 NMSA 1978 or adjudications on the basis of Subparagraph (a) of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or driver's license revocations pursuant to the provisions of the Implied Consent Act or as a condition of parole, to install those devices in their vehicles. Provided that money is available in the interlock device fund, the traffic safety bureau shall pay, for one vehicle per offender, up to fifty dollars (\$50.00) for the cost of installation, up to fifty dollars (\$50.00) for the cost of removal and up to thirty dollars (\$30.00) monthly for verified active usage of the interlock device. The traffic safety bureau shall not pay any amount above what an offender would be required to pay for the installation, removal or usage of an interlock device.

D. Indigency shall be determined by the traffic safety bureau based on proof of enrollment in one or more of the following types of public assistance:

- (1) temporary assistance for needy families;
- (2) general assistance;
- (3) the supplemental nutritional assistance program, also known as "food stamps";
- (4) supplemental security income;

- (5) the federal food distribution program on Indian reservations; or
- (6) other criteria approved by the traffic safety bureau.

E. Any balance remaining in the interlock device fund shall not revert to the general fund at the end of any fiscal year.

F. The interlock device fund shall be administered by the traffic safety bureau of the department of transportation. No more than ten percent of the money in the interlock device fund in any fiscal year shall be expended by the traffic safety bureau of the department of transportation for the purpose of administering the fund."

Chapter 29 Section 3 Laws 2010

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

HJC/House Bill 207

Approved March 3, 2010

LAWS 2010, CHAPTER 30

AN ACT

RELATING TO TAXATION; AMENDING THE PROPERTY TAX CODE TO PROVIDE THAT THE ADDITION OF A SOLAR ENERGY INSTALLATION SHALL NOT BE CONSIDERED A PHYSICAL IMPROVEMENT FOR PURPOSES OF THE LIMITATION ON INCREASES IN VALUATION OF RESIDENTIAL PROPERTY.

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

Chapter 30 Section 1 Laws 2010

Section 1. Section 7-36-21.2 NMSA 1978 (being Laws 2000, Chapter 10, Section 2, as amended) is amended to read:

"7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF RESIDENTIAL PROPERTY.--

A. Residential property shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code; provided that for the 2001 and subsequent tax years, the value of a property in any tax year shall not exceed the

higher of one hundred three percent of the value in the tax year prior to the tax year in which the property is being valued or one hundred six and one-tenth percent of the value in the tax year two years prior to the tax year in which the property is being valued. This limitation on increases in value does not apply to:

(1) a residential property in the first tax year that it is valued for property taxation purposes;

(2) any physical improvements, except for solar energy system installations, made to the property during the year immediately prior to the tax year or omitted in a prior tax year; or

(3) valuation of a residential property in any tax year in which:

(a) a change of ownership of the property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined; or

(b) the use or zoning of the property has changed in the year prior to the tax year.

B. If a change of ownership of residential property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined, the value of the property shall be its current and correct value as determined pursuant to the general valuation provisions of the Property Tax Code.

C. To assure that the values of residential property for property taxation purposes are at current and correct values in all counties prior to application of the limitation in Subsection A of this section, the department shall determine for the 2000 tax year the sales ratio pursuant to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be determined pursuant to that section, conduct a sales-ratio analysis using both independent appraisals by the department and sales. If the sales ratio for a county for the 2000 tax year is less than eighty-five, as measured by the median ratio of value for property taxation purposes to sales price or independent appraisal by the department, the county shall not be subject to the limitations of Subsection A of this section and shall conduct a reassessment of residential property in the county so that by the 2003 tax year, the sales ratio is at least eighty-five. After such reassessment, the limitation on increases in valuation in this section shall apply in those counties in the earlier of the 2004 tax year or the first tax year following the tax year that the county has a sales ratio of eighty-five or higher, as measured by the median ratio of value for property taxation purposes to sales value or independent appraisal by the department. Thereafter, the limitation on increases in valuation of residential property for property taxation purposes in this section shall apply to subsequent tax years in all counties.

D. The provisions of this section do not apply to residential property for any tax year in which the property is subject to the valuation limitation in Section 7-36-21.3 NMSA 1978.

E. As used in this section, "change of ownership" means a transfer to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in residential property except for a transfer:

(1) to a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased transferor;

(2) to the spouse of the transferor that takes effect upon the death of the transferor;

(3) that creates, transfers or terminates, solely between spouses, any co-owner's interest;

(4) to a child of the transferor, who occupies the property as that person's principal residence at the time of transfer; provided that the first subsequent tax year in which that person does not qualify for the head of household exemption on that property, a change of ownership shall be deemed to have occurred;

(5) that confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the real property is located;

(6) for the purpose of quieting the title to real property or resolving a disputed location of a real property boundary;

(7) to a revocable trust by the transferor with the transferor, the transferor's spouse or a child of the transferor as beneficiary; or

(8) from a revocable trust described in Paragraph (7) of this subsection back to the settlor or trustor or to the beneficiaries of the trust.

F. As used in this section, "solar energy system installation" means an installation that is used to provide space heat, hot water or electricity to the property in which it is installed and is:

(1) an installation that uses solar panels that are not also windows;

(2) a dark-colored water tank exposed to sunlight; or

(3) a non-vented trombe wall."

Chapter 30 Section 2 Laws 2010

Section 2. APPLICABILITY.--The provisions of this act apply to property tax years beginning on or after January 1, 2010.

House Bill 233

Approved March 3, 2010

LAWS 2010, CHAPTER 31

AN ACT

RELATING TO TAXATION; AUTHORIZING COUNTIES TO IMPOSE A LOCAL OPTION COUNTY BUSINESS RETENTION GROSS RECEIPTS TAX; AMENDING THE GAMING CONTROL ACT TO PROVIDE A GAMING TAX CREDIT FOR CERTAIN GAMING OPERATORS THAT ARE RACETRACKS; DECLARING AN EMERGENCY.

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

Chapter 31 Section 1 Laws 2010

Section 1. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

"COUNTY BUSINESS RETENTION GROSS RECEIPTS TAX--IMPOSITION--RATE.--

A. A majority of the members of a governing body may enact an ordinance imposing an excise tax on a person engaging in business in the county for the privilege of engaging in business in the county to provide funds to retain local businesses in the county. The maximum rate of the tax shall be one-fourth percent of the gross receipts of the person engaging in business. The tax may be imposed in its entirety or in increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent.

B. The tax imposed pursuant to this section may be referred to as the "county business retention gross receipts tax".

C. An ordinance imposing the county business retention gross receipts tax shall not go into effect until after an election is held and a majority of the voters in the county voting in the election vote 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 may be submitted to the voters of the county as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall

be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the county business retention gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If the question of imposing the county business retention 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.

D. The governing body shall include in the ordinance that:

(1) an amount not to exceed seven hundred fifty thousand dollars (\$750,000) of the money from the county business retention gross receipts tax shall be distributed to the state to reduce the impact to the general fund of gaming tax lost to the state from the county from reduced gaming tax revenue due to decreased economic activity in the county; and

(2) the remainder of the revenue from the county business retention gross receipts tax shall be distributed back to the county for use for promotion or administration of the county, instructional or general purposes for a public post-secondary educational institution in the county, capital outlay to expand or relocate a public post-secondary educational institution in the county or funding professional services contracts related to implementing an economic development plan adopted by the governing body that shall be updated on an annual basis during the period in which the tax is imposed.

E. The county shall notify the department within thirty days of adopting an ordinance and inform the department of the date on which the tax will be imposed for collection purposes.

F. The governing body of a county that has imposed a county business retention gross receipts tax pursuant to this section may adopt by a majority vote an ordinance repealing that tax as of either July 1 or January 1, as stated in the ordinance. If the county business retention gross receipts tax is repealed, the governing body shall notify the department within thirty days of the repeal and of the date on which the repeal becomes effective.

G. An ordinance enacted pursuant to the provisions of this section shall include an effective date of either July 1 or January 1 as required by the County Local Option Gross Receipts Taxes Act.

H. A county business retention gross receipts tax imposed pursuant to this section shall be in effect for no more than five years from the effective date of the tax as stated in the county ordinance.

I. As used in this section, "county" means a county containing gaming operator licensees that are racetracks."

Chapter 31 Section 2 Laws 2010

Section 2. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--COUNTY BUSINESS RETENTION GROSS RECEIPTS TAX.-
-Beginning September 1, 2011, an annual distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a county that has imposed and the electors have approved a county business retention gross receipts tax. The distribution shall be in an amount equal to the balance of the net receipts attributable to that tax collected in the prior fiscal year, exclusive of penalties and interest, after the state has deducted an amount for deposit to the general fund equal to the reduction in gaming tax revenue from the gaming operator licensees that are racetracks located in that county resulting from county gaming tax credits allowed in the immediately prior fiscal year for gaming operator licensees located in that county. The total receipts from any county transferred to the general fund in any fiscal year shall not exceed seven hundred fifty thousand dollars (\$750,000) or the total amount of the decrease in gaming tax revenue calculated for the county pursuant to this section, whichever is less."

Chapter 31 Section 3 Laws 2010

Section 3. A new section of the Gaming Control Act is enacted to read:

"COUNTY GAMING TAX CREDIT.--

A. Subject to the provisions of Subsection C of this section, beginning January 1, 2011, a taxpayer that is a gaming operator licensee that is a racetrack may claim, and the department may allow, a tax credit in an amount of up to fifty percent of the taxpayer's monthly gaming tax liability pursuant to Section 60-2E-47 NMSA 1978, not to exceed a maximum credit of seven hundred fifty thousand dollars (\$750,000) per state fiscal year, if the taxpayer:

(1) is located in a county in which the board of county commissioners has imposed and the electors have approved a county business retention gross receipts tax; and

(2) had in the immediately prior calendar year a combined net take and receipts, not including receipts for purses, from an allocation agreement made pursuant to Section 60-2E-27 NMSA 1978 of under fifteen million dollars (\$15,000,000).

B. The tax credit that may be claimed pursuant to this section may be referred to as the "county gaming tax credit".

C. If in the prior fiscal year the total amount of county gaming tax credit claimed by the taxpayer exceeded the amount distributed to the state from the proceeds of a county business retention gross receipts tax imposed by the county in which the taxpayer is located, the taxpayer shall be deemed to owe an amount equal to the

excess credit and shall remit to the state an amount equal to the excess credit. The taxpayer may not again claim the county gaming tax credit until the excess amount calculated pursuant to this subsection has been remitted to the state.

D. The county gaming tax credit shall be administered by the taxation and revenue department pursuant to the Tax Administration Act.

E. Subject to the provisions of Subsection C of this section, the credit created in this section may be claimed on a monthly basis against the gaming tax remitted to the state on a form provided by the department. The credit claimed each month may not exceed one-twelfth of fifty percent of the gaming tax paid in the prior calendar year. Any additional credit that may be allowed may be claimed in the last month of the fiscal year. The maximum county gaming tax credit claimed shall not exceed fifty percent of the gaming tax due from the taxpayer in the fiscal year."

Chapter 31 Section 4 Laws 2010

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

House Bill 203, aa, w/ec

Approved March 3, 2010

LAWS 2010, CHAPTER 32

AN ACT

RELATING TO LAW ENFORCEMENT; INCLUDING VICTIMS OF DOMESTIC ABUSE AS ENDANGERED PERSONS IN THE MISSING PERSONS INFORMATION ACT; EXPANDING THE DEFINITION OF "IMMEDIATE FAMILY MEMBER"; AMENDING SECTIONS OF THE MISSING PERSONS INFORMATION ACT.

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

Chapter 32 Section 1 Laws 2010

Section 1. Section 29-15-1 NMSA 1978 (being Laws 1995, Chapter 146, Section 1) is amended to read:

"29-15-1. SHORT TITLE.--Chapter 29, Article 15 NMSA 1978 may be cited as the "Missing Persons Information Act"."

Chapter 32 Section 2 Laws 2010

Section 2. Section 29-15-2 NMSA 1978 (being Laws 1995, Chapter 146, Section 2, as amended) is amended to read:

"29-15-2. DEFINITIONS.--As used in the Missing Persons Information Act:

A. "child" means an individual under the age of eighteen years who is not emancipated;

B. "clearinghouse" means the missing persons information clearinghouse;

C. "custodian" means a parent, guardian or other person who exercises legal physical control, care or custody of a child;

D. "endangered person" means a missing person who:

(1) is in imminent danger of causing harm to the person's self;

(2) is in imminent danger of causing harm to another;

(3) is in imminent danger of being harmed by another or who has been harmed by another;

(4) has been a victim of a crime as provided in the Crimes Against Household Members Act or in Section 30-3A-3 or 30-3A-3.1 NMSA 1978, or their equivalents in any other jurisdiction;

(5) is or was protected by an order of protection pursuant to the Family Violence Protection Act; or

(6) has Alzheimer's disease or another degenerative brain disorder;

E. "immediate family member" means the spouse, nearest relative or close friend of a person;

F. "lead station" means an AM radio station that has been designated as the "state primary station" by the federal communications commission for the emergency alert system;

G. "missing person" means a person whose whereabouts are unknown to the person's custodian or immediate family member and the circumstances of whose absence indicate that:

(1) the person did not leave the care and control of the custodian or immediate family member voluntarily and the taking of the person was not authorized by law; or

(2) the person voluntarily left the care and control of the custodian without the custodian's consent and without intent to return;

H. "missing person report" means information that is:

(1) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(2) about a person whose whereabouts are unknown to the reporter and who is alleged in the form submitted by the reporter to be missing;

I. "person" means an individual, regardless of age;

J. "possible match" means the similarities between unidentified human remains of a person and a missing person that would lead one to believe they are the same person;

K. "reporter" means the person who reports a missing person; and

L. "state agency" means an agency of the state, a political subdivision of the state or a public post-secondary educational institution."

Chapter 32 Section 3 Laws 2010

Section 3. Section 29-15-7 NMSA 1978 (being Laws 1995, Chapter 146, Section 7, as amended) is amended to read:

"29-15-7. LAW ENFORCEMENT REQUIREMENTS--MISSING PERSON REPORTS--UNIDENTIFIED HUMAN REMAINS.--

A. A law enforcement agency, upon receiving a missing person report, shall:

(1) immediately start an appropriate investigation to determine the present location of the missing person and to determine whether the missing person is an endangered person;

(2) provide to the clearinghouse all information the law enforcement agency has relating to an investigation regarding, or the location or identification of, a missing person;

(3) immediately enter the name of the missing person into the clearinghouse and the national crime information center missing person file; and

(4) if the missing person is determined to be an endangered person, notify the department of public safety within twelve hours of receiving the report, in accordance with procedures prescribed by the department.

B. Information not immediately available shall be obtained as soon as possible by the law enforcement agency and entered into the clearinghouse and the national crime information center file as a supplement to the original entry.

C. All New Mexico law enforcement agencies are required to enter information about all unidentified human remains of persons found in their jurisdiction into the clearinghouse and the national crime information center unidentified person file, including all available identifying features of the human remains and a description of the clothing found with the human remains. If an information entry into the national crime information center file results in an automatic entry of the information into the clearinghouse, the law enforcement agency is not required to make a direct entry of that information into the clearinghouse.

Senate Bill 167, aa

Approved March 3, 2010

LAWS 2010, CHAPTER 33

AN ACT

RELATING TO MISSING PERSONS; REQUIRING LAW ENFORCEMENT TRAINING FOR MISSING PERSON AND AMBER ALERT INCIDENTS; COMBINING THE STATUTES PERTAINING TO MISSING PERSONS AND TO MISSING CHILDREN INTO THE MISSING PERSONS INFORMATION AND REPORTING ACT; SPECIFYING INFORMATION FOR MISSING PERSON REPORTS; ESTABLISHING TIME FRAMES FOR LAW ENFORCEMENT AGENCY ACTION; PROVIDING FOR DISCIPLINARY ACTION FOR NONCOMPLIANCE WITH DUTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 33 Section 1 Laws 2010

Section 1. A new section of the Law Enforcement Training Act is enacted to read:

"MISSING PERSON AND AMBER ALERT TRAINING.--A minimum of four hours of combined missing person and AMBER alert training shall be included in the curriculum of each basic law enforcement training class. Missing person and AMBER alert training shall be included as a component of in-service training each year for certified police officers."

Chapter 33 Section 2 Laws 2010

Section 2. Section 29-15-1 NMSA 1978 (being Laws 1995, Chapter 146, Section 1) is amended to read:

"29-15-1. SHORT TITLE.--Chapter 29, Article 15 NMSA 1978 may be cited as the "Missing Persons Information and Reporting Act"."

Chapter 33 Section 3 Laws 2010

Section 3. Section 29-15-2 NMSA 1978 (being Laws 1995, Chapter 146, Section 2, as amended) is amended to read:

"29-15-2. DEFINITIONS.--As used in the Missing Persons Information and Reporting Act:

A. "child" means an individual under the age of eighteen years who is not emancipated;

B. "clearinghouse" means the missing persons information clearinghouse;

C. "custodian" means a parent, guardian or other person who exercises legal physical control, care or custody of a child;

D. "endangered person" means a missing person who:

(1) is in imminent danger of causing harm to the person's self;

(2) is in imminent danger of causing harm to another;

(3) is in imminent danger of being harmed by another or who has been harmed by another; or

(4) has Alzheimer's disease or another degenerative brain disorder;

E. "immediate family member" means the spouse or nearest relative of a person;

F. "law enforcement agency" means a law enforcement agency of the state, a state agency or a political subdivision of the state;

G. "lead station" means an AM radio station that has been designated as the "state primary station" by the federal communications commission for the emergency alert system;

H. "missing person" means a person whose whereabouts are unknown to the person's custodian or immediate family member and the circumstances of whose absence indicate that:

(1) the person did not leave the care and control of the custodian or immediate family member voluntarily and the taking of the person was not authorized by law; or

(2) the person voluntarily left the care and control of the custodian without the custodian's consent and without intent to return;

I. "missing person report" means information that is:

(1) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(2) about a person whose whereabouts are unknown to the reporter and who is alleged in the form submitted by the reporter to be missing;

J. "person" means an individual, regardless of age;

K. "possible match" means the similarities between unidentified human remains and a missing person that would lead one to believe they are the same person;

L. "reporter" means the person who reports a missing person;

M. "state agency" means an agency of the state, a political subdivision of the state or a public post-secondary educational institution; and

N. "state registrar" means the employee so designated by the public health division of the department of health pursuant to the Vital Statistics Act."

Chapter 33 Section 4 Laws 2010

Section 4. Section 29-15-3 NMSA 1978 (being Laws 1995, Chapter 146, Section 3) is amended to read:

"29-15-3. MISSING PERSONS INFORMATION CLEARINGHOUSE--
FUNCTION.--

A. The "missing persons information clearinghouse" is established in the department of public safety. The department of public safety shall provide for the

administration of the clearinghouse. The department of public safety may adopt rules to carry out the provisions of the Missing Persons Information and Reporting Act in the manner prescribed in Subsection E of Section 9-1-5 NMSA 1978.

B. The clearinghouse is a central repository of information on missing persons and shall be used by all law enforcement agencies, including tribal agencies, in this state.

C. The clearinghouse shall:

(1) establish a system of intrastate communication of information relating to missing persons;

(2) provide a centralized file for the exchange of information on missing persons and unidentified human remains within the state;

(3) communicate with the national crime information center for the exchange of information on missing persons suspected of interstate travel;

(4) collect, process, maintain and disseminate accurate and complete information on missing persons;

(5) provide a statewide toll-free telephone line for the reporting of missing persons and for receiving information on missing persons;

(6) disseminate to custodians, law enforcement agencies, the public education department, the children, youth and families department and the general public information that explains how to prevent child abduction and what to do if a child becomes missing;

(7) compile statistics relating to the incidence of missing persons within the state;

(8) provide training and technical assistance to law enforcement agencies and social services agencies pertaining to missing persons; and

(9) establish a media protocol for disseminating information pertaining to missing persons.

D. The clearinghouse shall print and distribute posters, flyers and other forms of information containing descriptions of missing persons.

E. The department of public safety may accept public or private grants, gifts and donations to assist the department in carrying out the provisions of the Missing Persons Information and Reporting Act."

Chapter 33 Section 5 Laws 2010

Section 5. Section 29-15-5 NMSA 1978 (being Laws 1995, Chapter 146, Section 5) is amended to read:

"29-15-5. CUSTODIAN OR IMMEDIATE FAMILY MEMBER REQUEST FOR INFORMATION.--

A. Upon written or oral request to a law enforcement agency by a custodian or immediate family member of a missing person, the law enforcement agency shall immediately request from the clearinghouse information concerning the missing person that may aid the custodian or immediate family member in the identification or location of the missing person.

B. A law enforcement agency to which a request has been made pursuant to Subsection A of this section shall report to the custodian or immediate family member on the results of its inquiry to the clearinghouse within seven calendar days after the day the request is received by the law enforcement agency, or as soon as the results of its inquiry become available, whichever occurs last."

Chapter 33 Section 6 Laws 2010

Section 6. Section 29-15-6 NMSA 1978 (being Laws 1995, Chapter 146, Section 6) is amended to read:

"29-15-6. MISSING PERSON REPORT FORMS.--

A. The clearinghouse shall distribute missing person report forms to law enforcement agencies in the state.

B. A missing person report may be made to a law enforcement agency in person, or by telephone, electronic media or other indirect method of communication and the person taking the report may enter the information on the form for the reporter. A missing person report form may be completed by the reporter and delivered to a law enforcement officer.

C. A copy of the missing person report form shall be filed with the clearinghouse.

D. A missing person report form shall include, to the extent available, the following information:

(1) the missing person's:

(a) name, including any alternative names used;

- (b) date of birth;
 - (c) identifying marks, including birthmarks, moles, tattoos and scars;
 - (d) height and weight;
 - (e) gender;
 - (f) race;
 - (g) current hair color and true or natural hair color;
 - (h) eye color;
 - (i) prosthetics, surgical implants or cosmetic implants;
 - (j) physical anomalies;
 - (k) blood type;
 - (l) driver's license number; and
 - (m) social security number;
- (2) a photograph of the missing person, with a recent photograph being preferable;
- (3) a description of the clothing the missing person was believed to be wearing;
- (4) a description of items that might be with the missing person, such as jewelry and accessories;
- (5) information on the missing person's electronic communications devices, including cell phone numbers and email addresses;
- (6) reasons why the reporting person believes that the person is missing;
- (7) the name and location of the missing person's school or employer;
- (8) the name and location of the missing person's dentist or primary care physician;

(9) any circumstances that may indicate that the disappearance of the missing person was not voluntary;

(10) any circumstances that indicate that the missing person may be at risk of injury or death;

(11) a description of the possible means of transportation of the missing person, including make, model, color, license and vehicle identification number of a vehicle;

(12) any identifying information about a known or possible abductor of the missing person or the person last seen with the missing person;

(13) any other information that can aid in locating the missing person; and

(14) the date of last contact with the missing person."

Chapter 33 Section 7 Laws 2010

Section 7. Section 29-15-7 NMSA 1978 (being Laws 1995, Chapter 146, Section 7, as amended) is amended to read:

"29-15-7. LAW ENFORCEMENT REQUIREMENTS--MISSING PERSON REPORTS--UNIDENTIFIED HUMAN REMAINS.--

A. A law enforcement agency shall accept without delay and without exception for any reason any report of a missing person and, no later than two hours after receiving a missing person report or additional or supplemental information for the report, shall:

(1) start an appropriate investigation to determine the present location of the missing person and to determine whether the missing person is an endangered person;

(2) provide to the clearinghouse all information the law enforcement agency has relating to an investigation regarding or the location or identification of a missing person;

(3) enter the name of the missing person into the clearinghouse and the national crime information center missing person file; and

(4) if the missing person is determined to be an endangered person, notify the department of public safety in accordance with procedures prescribed by the department.

B. Information not immediately available shall be obtained as soon as possible by the law enforcement agency and, no later than two hours after receipt of the information, entered into the clearinghouse and the national crime information center file as a supplement to the original entry.

C. All New Mexico law enforcement agencies are required to enter information about all unidentified human remains found in their jurisdiction into the clearinghouse and the national crime information center unidentified person file, including all available identifying features of the human remains and a description of the clothing found on the human remains. If an information entry into the national crime information center file results in an automatic entry of the information into the clearinghouse, the law enforcement agency is not required to make a direct entry of that information into the clearinghouse."

Chapter 33 Section 8 Laws 2010

Section 8. A new section of the Missing Persons Information and Reporting Act, Section 29-15-7.1 NMSA 1978, is enacted to read:

"29-15-7.1. MISSING CHILD REPORTS--LAW ENFORCEMENT AGENCIES--DUTIES--REGISTRAR.--

A. Upon receiving a report of a child believed to be missing, a law enforcement agency shall:

(1) no later than two hours after receiving the report, enter identifying and descriptive information about the child into the national crime information center computer. Law enforcement agencies having direct access to the national crime information center computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies that do not have direct access to the system; and

(2) notify the state registrar within twenty-four hours, by telephone, facsimile or electronic transmission, of the missing child. Within three days of this initial notification, the law enforcement agency shall make a written notification in a manner and form prescribed by the state registrar. Both notifications shall include the missing child's name, date of birth and county and state of birth; the mother's maiden name; the name of the noncustodial parent if the parents are not married; the name and telephone number of a contact person at the reporting law enforcement agency; and any other information required by the state registrar.

B. Immediately after a missing child is located, the law enforcement agency that located or returned the missing child shall notify the law enforcement agency having jurisdiction over the investigation, and the originating agency shall clear the entry from the national crime information center computer and shall, within twenty-four hours, notify the state registrar in writing that the missing child has been located."

Chapter 33 Section 9 Laws 2010

Section 9. A new section of the Missing Persons Information and Reporting Act, Section 29-15-7.2 NMSA 1978, is enacted to read:

"29-15-7.2. BIRTH RECORDS OF MISSING CHILDREN--STATE REGISTRAR'S DUTIES.--

A. Upon notification by a law enforcement agency that a child born in the state is missing, the state registrar shall flag the child's birth record in such a manner that whenever a copy of the birth certificate or information concerning the birth record is requested, the state registrar shall be alerted to the fact that the certificate is that of a missing child.

B. Upon notification by a law enforcement agency that a child born outside the state is missing, the state registrar shall notify the corresponding officer in the state where the child was born that the child has been reported missing.

C. In response to any inquiry, the state registrar or any local registrar appointed by the state registrar or any employee of the vital statistics bureau of the health services division of the department of health shall not provide a copy of a birth certificate or information concerning the birth record of any missing child whose birth record is flagged pursuant to this section, except following notification of the law enforcement agency having jurisdiction over the investigation of the missing child. Such inquiries shall be handled in the following manner:

(1) when a copy of the birth certificate of a missing child whose record has been flagged is requested in person, the local registrar or employee accepting the request shall immediately notify that person's supervisor or the state registrar. If possible, the person making the request shall complete a form supplying the requester's name, address, telephone number and relationship to the missing child and the name, address and birth date of the missing child. The driver's license of the requester, if available, shall be photocopied and returned. The requester shall be informed that a copy of the birth certificate will be mailed to the requester. The local registrar or employee shall note the physical description of the requester, and, upon that requester's departure from the vital statistics bureau office, the supervisor or state registrar shall immediately notify the law enforcement agency having jurisdiction of the request and the information obtained pursuant to this paragraph. The state registrar will retain the form completed by the person making the request; and

(2) when a copy of the birth certificate of a missing child whose birth record has been flagged is requested in writing, the state registrar shall immediately notify the law enforcement agency having jurisdiction of the request and shall provide a copy of the written request. The state registrar shall retain the original written request.

D. Upon notification by a law enforcement agency that a missing child has been recovered, the state registrar shall remove the flag from the child's birth record."

Chapter 33 Section 10 Laws 2010

Section 10. Section 29-15-8 NMSA 1978 (being Laws 1995, Chapter 146, Section 8) is amended to read:

"29-15-8. RELEASE OF DENTAL RECORDS--IMMUNITY.--

A. At the time a missing person report is made, the law enforcement agency to which the missing person report is given shall provide a dental record release form conforming to the requirements of the federal Health Insurance Portability and Accountability Act of 1996 to the custodian or immediate family member of the missing person, provided that the custodian or immediate family member is authorized pursuant to that federal act to execute a release on behalf of the missing person. The law enforcement agency shall endorse the dental record release form with a notation that a missing person report has been made in compliance with the provisions of the Missing Persons Information and Reporting Act. When the dental record release form is properly completed by the custodian or immediate family member of the missing person and contains the endorsement, the form is sufficient to permit a dentist or physician in this state to release dental records relating to the missing person to the law enforcement agency.

B. If a release form cannot be executed, the law enforcement agency shall seek disclosure of the dental records of a missing person directly from the records custodian pursuant to the provisions of the federal Health Insurance Portability and Accountability Act of 1996 that allow disclosure of health information for law enforcement purposes.

C. The law enforcement agency shall send the dental records to the clearinghouse.

D. A dentist or physician who releases dental records pursuant to this section is immune from civil liability or criminal prosecution for the release of the dental records."

Chapter 33 Section 11 Laws 2010

Section 11. Section 29-15-9 NMSA 1978 (being Laws 1995, Chapter 146, Section 9) is amended to read:

"29-15-9. CROSS-CHECKING AND MATCHING.--

A. The clearinghouse shall cross-check and attempt to match unidentified human remains with descriptions of missing persons. When the clearinghouse

discovers a possible match between unidentified human remains and a missing person description, the clearinghouse shall notify the appropriate law enforcement agencies.

B. Law enforcement agencies that receive notice of a possible match shall make arrangements for positive identification. If a positive identification is made, the law enforcement agency shall complete and close the investigation with written notification to the clearinghouse.

C. Law enforcement agencies that receive notice of a possible match between human remains and a missing person description shall notify the office of the state medical investigator."

Chapter 33 Section 12 Laws 2010

Section 12. Section 29-15-10 NMSA 1978 (being Laws 1995, Chapter 146, Section 10) is amended to read:

"29-15-10. INTERAGENCY COOPERATION.--

A. State agencies and public and private schools shall cooperate with a law enforcement agency that is investigating a missing person report and shall furnish any information that will assist the law enforcement agency in completing the investigation.

B. Information provided by a state agency or a public or private school shall not be released to any person outside the law enforcement agency or the clearinghouse, except as provided by rule of the department of public safety."

Chapter 33 Section 13 Laws 2010

Section 13. Section 29-15-11 NMSA 1978 (being Laws 1995, Chapter 146, Section 11) is amended to read:

"29-15-11. CONFIDENTIALITY OF RECORDS.--

A. The department of public safety shall by rule provide for the classification of information and records as confidential that:

(1) are otherwise confidential under state or federal law or rules adopted pursuant to state or federal law;

(2) are related to the investigation by a law enforcement agency of a missing person or unidentified human remains, if the department of public safety, in consultation with the law enforcement agency, determines that release of the information would be deleterious to the investigation;

(3) are records or notations that the clearinghouse maintains for internal use in matters relating to missing persons and unidentified human remains and the department of public safety determines that release of the internal documents might interfere with an investigation by a law enforcement agency in New Mexico or any other jurisdiction; or

(4) the department of public safety determines might interfere with an investigation or otherwise harm a person, custodian or reporter.

B. The rule may provide for the sharing of confidential information with the custodian or immediate family member of the missing person."

Chapter 33 Section 14 Laws 2010

Section 14. Section 29-15-12 NMSA 1978 (being Laws 1995, Chapter 146, Section 12) is amended to read:

"29-15-12. ATTORNEY GENERAL TO REQUIRE COMPLIANCE--REMOVAL OR DISCIPLINE.--

A. The attorney general shall enforce state agency compliance with the provisions of the Missing Persons Information and Reporting Act as appropriate to assure the immediate response to a report of a missing person."

Chapter 33 Section 15 Laws 2010

Section 15. REPEAL.--Sections 32A-14-1 through 32A-14-4 NMSA 1978 (being Laws 1987, Chapter 25, Sections 1 through 4, as amended) are repealed.

Senate Bill 55, aa

Approved March 5, 2010

LAWS 2010, CHAPTER 34

AN ACT

RELATING TO STATE GOVERNMENT; ENACTING THE SUNSHINE PORTAL TRANSPARENCY ACT; PROVIDING FOR THE DEVELOPMENT, OPERATION AND MAINTENANCE OF A WEB-BASED INFORMATION PORTAL THAT PROVIDES PUBLIC ACCESS TO STATE GOVERNMENT BUDGETS, EXPENDITURES, REVENUE AND OTHER INFORMATION.

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

Chapter 34 Section 1 Laws 2010

Section 1. SHORT TITLE.--This act may be cited as the "Sunshine Portal Transparency Act".

Chapter 34 Section 2 Laws 2010

Section 2. DEFINITIONS.--As used in the Sunshine Portal Transparency Act:

A. "department" means the department of information technology;

B. "exempt employee" means an employee of the state or a state agency who is in a policymaking or supervisory position and who serves at the discretion of the agency head or at the discretion of an appointee of the agency head;

C. "expenditure" means a disbursement of state or federal funds by a state agency, whether or not the funds have been appropriated by the legislature;

D. "federal funds" means money received by a state agency from the federal government or one of its branches, departments, agencies, offices, officers or instrumentalities;

E. "revenue" means money received by a state agency and deposited into the general fund or another state fund. "Revenue" includes money from taxes, fines, fees, royalties, federal funds and other sources but does not include money deposited into a state suspense fund; and

F. "state agency" means the New Mexico state government or any department, division, institution, board, bureau, commission or committee of state government and includes any office or officer of any of the above.

Chapter 34 Section 3 Laws 2010

Section 3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

A. The department, with the department of finance and administration, shall develop, operate and maintain a single internet web site that is free, user-friendly, searchable and accessible to the public, known as the "sunshine portal", to host the state's financial information for the purpose of governmental transparency and accountability to taxpayers.

B. No later than October 1, 2010, the department shall create the architecture and the information exchange process for the collection and electronic publication of the state's financial information.

C. No later than July 1, 2011, the sunshine portal shall be available for public access and include updated information as required by Subsection D of this section.

D. The sunshine portal shall provide, at a minimum, access to the following information:

- (1) the state's cash balances by account or fund;
- (2) a monthly summary of the state's investment accounts under the control of the state investment council;
- (3) annual operating budgets for each state agency with monthly expenditures by category;
- (4) contracts that a state agency enters into for the lease, sale or development of state land or if they have a total value of more than twenty thousand dollars (\$20,000), naming both the recipient and purpose of the contract;
- (5) the revenue that the state received in the preceding month by source, such as type of tax, fee, fine, administrative fee or other collection category;
- (6) special appropriations received outside the general appropriation act by each state agency and the purpose of those appropriations;
- (7) approved budget adjustment requests by state agency and affected budget category;
- (8) reversions and cash balances by state agency and fund;
- (9) appropriations for capital projects, identified by project location, type of project and funding source;
- (10) a directory of all employee positions, other than exempt employee positions, identified only by state agency, position title and salary;
- (11) a directory of all exempt employee positions, identified by state agency, position title, salary and the name of the individual that holds the position;
- (12) a link to an open meeting tracker web site upon which each state agency shall post open meetings scheduled for the current month and the next month, including the time and place of the meeting, the subject of the meeting and an agenda;
- (13) a link to New Mexico's statutes;

(14) a link to the New Mexico Administrative Code;

(15) a link to the secretary of state's web sites for lobbyist regulation;

(16) an annual summary within three months after the end of the fiscal year of the state's fiscal health, including the state budget, revenues and expenditures for the previous fiscal year and projected revenues and operating budgets for the current fiscal year; and

(17) additional information, as required by rule of the department of finance and administration, that will assist the public in understanding state government operations and the use of taxpayer dollars.

E. State agencies shall provide updated financial information as frequently as possible but at least monthly.

F. The department shall update the web site as new information is received but at least monthly, include information from the previous month or year, where relevant, for comparison purposes and maintain the web site as the primary source of public information about the activity of the state government.

Chapter 34 Section 4 Laws 2010

Section 4. RULES PROMULGATION--COMPLIANCE REQUIRED.--

A. Pursuant to the State Rules Act, the department shall promulgate rules necessary to implement the architecture, information exchange process and maintenance of the sunshine portal pursuant to the Sunshine Portal Transparency Act.

B. Pursuant to the State Rules Act, the department of finance and administration shall promulgate rules to carry out the provisions of the Sunshine Portal Transparency Act.

C. All state agencies shall comply with the provisions of the Sunshine Portal Transparency Act and rules promulgated by the department and the department of finance and administration pursuant to that act.

Chapter 34 Section 5 Laws 2010

Section 5. PROTECTION OF CONFIDENTIAL INFORMATION.--Nothing in the Sunshine Portal Transparency Act shall require disclosure of information that is confidential by state or federal law.

Senate Bill 195, aa

Approved March 5, 2010

LAWS 2010, CHAPTER 35

AN ACT

RELATING TO CRIMINAL LAW; AMENDING THE INDIAN ARTS AND CRAFTS SALES ACT TO PROVIDE FOR PENALTIES CONSISTENT WITH PENALTIES FOR OTHER PROPERTY CRIMES; INCREASING PENALTIES.

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

Chapter 35 Section 1 Laws 2010

Section 1. Section 30-33-9 NMSA 1978 (being Laws 1977, Chapter 334, Section 6, as amended) is amended to read:

"30-33-9. VIOLATION OF ACT--PENALTIES.--

A. In an action brought by the attorney general or a district attorney for a violation under the provisions of the Indian Arts and Crafts Sales Act, the district court may order temporary or permanent injunctive relief. The district court shall order restitution and such other relief as may be necessary to redress injury to any person resulting from the violation.

B. In any action brought under this section, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by the Indian Arts and Crafts Sales Act, the attorney general or district attorney, upon petition to the court, may recover, on behalf of the state of New Mexico, a civil penalty not to exceed five thousand dollars (\$5,000) per violation.

C. Any person willfully and knowingly violating the provisions of the Indian Arts and Crafts Sales Act where the violation involves property valued at two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

D. Any person willfully and knowingly violating the provisions of the Indian Arts and Crafts Sales Act where the violation involves property valued in excess of two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

E. Any person willfully and knowingly violating the provisions of the Indian Arts and Crafts Sales Act where the violation involves property valued in excess of five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

F. Any person willfully and knowingly violating the provisions of the Indian Arts and Crafts Sales Act where the violation involves property valued in excess of two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

G. Any person willfully and knowingly violating the provisions of the Indian Arts and Crafts Sales Act where the violation involves property valued in excess of twenty thousand dollars (\$20,000) is guilty of a second degree felony."

Chapter 35 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 107

Approved March 5, 2010

LAWS 2010, CHAPTER 36

AN ACT

RELATING TO EDUCATION; INCLUDING FEDERAL BUREAU OF INDIAN EDUCATION HIGH SCHOOLS AND TRIBAL COLLEGES IN THE DUAL CREDIT PROGRAM.

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

Chapter 36 Section 1 Laws 2010

Section 1. Section 21-1-1.2 NMSA 1978 (being Laws 2007, Chapter 227, Section 1, as amended) is amended to read:

"21-1-1.2. DUAL CREDIT FOR HIGH SCHOOL AND POST-SECONDARY CLASSES.--

A. As used in this section:

(1) "bureau of Indian education high school" means a school located in New Mexico that is under the control of the bureau of Indian education of the United States department of the interior;

(2) "dual credit program" means a program that allows high school students to enroll in college-level courses offered by a public post-secondary educational institution or tribal college that may be academic or career-technical but not remedial or developmental, and simultaneously to earn credit toward high school graduation and a post-secondary degree or certificate; and

(3) "tribal college" means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and schools.

B. To be eligible to participate in a dual credit program, the student shall:

(1) except as provided in Subsection C of this section, be enrolled in a regular public school, charter school, state-supported school or bureau of Indian education high school in one-half or more of the minimum course requirements approved by the public education department for public school students; and

(2) obtain permission from a school counselor; the school principal; or the head administrator of a charter school, state-supported school or bureau of Indian education high school prior to enrolling in a dual credit course.

C. A student who has met the eligibility criteria provided for in Subsection B of this section in a fall or winter semester and who has not graduated or earned a general educational development certificate may take courses for dual credit during the immediately succeeding summer semester.

D. The school district, charter school, state-supported school or bureau of Indian education high school that the student attends shall pay the cost of the required textbooks and other course supplies for the post-secondary course the student is enrolled in through purchase arrangements with the bookstore at the public post-secondary educational institution or tribal college or through other cost-efficient methods. The student shall return the textbooks and unused course supplies to the school district, charter school, state-supported school or bureau of Indian education high school when the student completes the course or withdraws from the course.

E. A public post-secondary educational institution or tribal college that participates in a dual credit program shall waive all general fees for dual credit courses.

F. The higher education department shall revise procedures in the higher education funding formula to address enrollments in dual credit courses and to encourage institutions to waive tuition for high school students taking those courses.

G. The higher education department and the public education department shall adopt and promulgate rules to implement a dual credit program that specify:

(1) post-secondary courses that are eligible for dual credit;

(2) conditions that apply, including:

(a) the required academic standing and conduct of students enrolled in dual credit courses;

(b) the semesters in which dual credit courses may be taken;

(c) the nature of high school credit earned;

(d) any caps on the number of courses, location of courses and provision of transcripts; and

(e) an appeals process for a student who is denied permission to enroll in a dual credit course;

(3) accommodations or other arrangements applicable to special education students;

(4) the contents of the uniform master agreement, developed in collaboration with school districts, charter schools, state-supported schools, bureau of Indian education high schools, public post-secondary educational institutions and tribal colleges, that govern the roles, responsibilities and liabilities of the school district, charter school, state-supported school or bureau of Indian education high school; the public post-secondary educational institution or tribal college; and the student and the student's family;

(5) provisions for expanding dual credit opportunities through distance learning and other methods;

(6) the means by which public high schools are required to inform students and parents about opportunities to participate in dual credit programs during student advisement, academic support and formulation of annual next step plans, as well as other methods; and

(7) provisions for collecting and disseminating annual data, including:

(a) the number of students taking dual credit courses;

(b) the participating school districts, charter schools, state-supported schools, bureau of Indian education high schools, public post-secondary educational institutions and tribal colleges;

(c) the courses taken and grades earned;

(d) the high school graduation rates for participating school districts, charter schools, state-supported schools and bureau of Indian education high schools;

(e) the public post-secondary educational institutions and tribal colleges that participating students ultimately attend; and

(f) the cost of providing dual credit courses.

H. The higher education department and the public education department shall evaluate the dual credit program in terms of its accessibility to students statewide and its effect on:

(1) student achievement in secondary education;

(2) student enrollment and completion of higher education; and

(3) school districts, charter schools, state-supported schools, bureau of Indian education high schools, public post-secondary educational institutions and tribal colleges.

I. The departments shall make an annual report, including recommendations, to the governor and the legislature.

J. The provisions of this section do not apply to the New Mexico military institute."

Chapter 36 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

House Bill 90

Approved March 5, 2010

LAWS 2010, CHAPTER 37

AN ACT

RELATING TO CAPITAL EXPENDITURES; AMENDING THE SEVERANCE TAX BONDING ACT TO ALLOCATE FIVE PERCENT OF THE ANNUAL ESTIMATED SEVERANCE TAX BONDING CAPACITY FOR TRIBAL INFRASTRUCTURE

PROJECTS; AUTHORIZING SEVERANCE TAX BONDS; MAKING AN APPROPRIATION.

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

Chapter 37 Section 1 Laws 2010

Section 1. Section 7-27-10.1 NMSA 1978 (being Laws 2003, Chapter 134, Section 1, as amended) is amended to read:

"7-27-10.1. BONDING CAPACITY--AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL INFRASTRUCTURE PROJECTS.--

A. By January 15 of each year, the board of finance division of the department of finance and administration shall estimate the amount of bonding capacity available for severance tax bonds to be authorized by the legislature.

B. The division shall allocate ten percent of the estimated bonding capacity each year for water projects, and the legislature authorizes the state board of finance to issue severance tax bonds in the annually allocated amount for use by the water trust board to fund water projects statewide, except for projects authorized in Subsection E of this section. The water trust board shall certify to the state board of finance the need for issuance of bonds for water projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the water project fund in the New Mexico finance authority for the purposes certified by the water trust board to the state board of finance.

C. The board of finance division shall allocate five percent of the estimated bonding capacity each year for tribal infrastructure projects, and the legislature authorizes the state board of finance to issue severance tax bonds in the annually allocated amount for use by the tribal infrastructure board to fund tribal infrastructure projects. The tribal infrastructure board shall certify to the state board of finance the need for issuance of bonds for tribal infrastructure projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the tribal infrastructure project fund for the purposes certified by the tribal infrastructure board to the state board of finance.

D. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of

severance tax bonds issued for a water project or a tribal infrastructure project shall revert to the severance tax bonding fund within six months of completion of the project. The New Mexico finance authority shall monitor and ensure proper reversions of the bond proceeds appropriated for water projects, and the department of finance and administration shall monitor and ensure proper reversions of the bond proceeds appropriated for tribal infrastructure projects.

E. The board of finance division of the department of finance and administration shall:

(1) void the authorization to the water project fund held at the New Mexico finance authority to make grants or loans of severance tax bond proceeds for projects pursuant to Subsection U of Section 1 of Chapter 41 of Laws 2006 for the northwest New Mexico council of governments in McKinley county for a water distribution project and Subsection 25 of Section 1 of Chapter 139 of Laws 2007 for the Navajo Nation division of natural resources department of water resources water management branch for a regional water project in Rio Arriba, Sandoval, McKinley, San Juan and Cibola counties; and

(2) authorize the department of environment to make a grant of the unexpended proceeds of severance tax bonds issued in fiscal years 2006 and 2007 for the purposes of the water project fund to be used for the authorizations identified in Paragraph (1) of this subsection and appropriate to the department of environment five million three hundred seventy-five thousand two hundred forty-four dollars (\$5,375,244) for the Navajo Nation division of natural resources department of water resources water management branch for a regional water distribution project in Rio Arriba, Sandoval, McKinley, San Juan and Cibola counties. Any unexpended balance of the funds authorized for expenditure in this section shall revert to the severance tax bonding fund at the end of fiscal year 2013 or upon completion of the project, whichever is earlier.

F. As used in this section:

(1) "tribal infrastructure project" means a qualified project under the Tribal Infrastructure Act; and

(2) "water project" means a capital outlay project for:

(a) the storage, conveyance or delivery of water to end users;

(b) the implementation of federal Endangered Species Act of 1973 collaborative programs;

(c) the restoration and management of watersheds;

(d) flood prevention; or

(e) conservation, recycling, treatment or reuse of water."

Chapter 37 Section 2 Laws 2010

Section 2. APPLICABILITY.--The allocation of severance tax bonding capacity and the authorization of severance tax bonds for tribal infrastructure projects shall commence with the severance tax bonding capacity estimated on January 15, 2012 for authorization by the second session of the fiftieth legislature.

Chapter 37 Section 3 Laws 2010

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.

House Bill 162

Approved March 5, 2010

LAWS 2010, CHAPTER 38

AN ACT

RELATING TO MOTOR VEHICLE DEALER FRANCHISING; MAKING CERTAIN UNFAIR ACTS AND PRACTICES UNLAWFUL FOR MOTOR VEHICLE MANUFACTURERS; DECLARING AN EMERGENCY.

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

Chapter 38 Section 1 Laws 2010

Section 1. Section 57-16-3 NMSA 1978 (being Laws 1973, Chapter 6, Section 3, as amended) is amended to read:

"57-16-3. DEFINITIONS.--As used in Chapter 57, Article 16 NMSA 1978:

A. "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;

B. "motor vehicle dealer" or "dealer" means any person who sells or solicits or advertises the sale of new or used motor vehicles. "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;

C. "person" means every natural person, partnership, corporation, association, trust, estate or any other legal entity;

D. "prospective purchaser" means a person who has a bona fide written agreement to purchase a franchise;

E. "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;

F. "distributor" means any person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer;

G. "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;

H. "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;

I. "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;

J. "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;

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. "recreational vehicle" means any motor vehicle with a camping body that either has its own motive power or is drawn by another vehicle;

M. "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;

N. "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;

O. "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;

P. "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;

Q. "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;

R. "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;

S. "predecessor manufacturer" means a manufacturer that is acquired, succeeded by or assumed by a successor manufacturer; and

T. "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."

Chapter 38 Section 2 Laws 2010

Section 2. Section 57-16-8 NMSA 1978 (being Laws 1973, Chapter 6, Section 8) is amended to read:

"57-16-8. UNREASONABLE RESTRICTIONS--SITE CONTROL AGREEMENTS-
-EXCLUSIVE USE AGREEMENTS.--

A. It is unlawful to, directly or indirectly, impose unreasonable restrictions on the motor vehicle dealer or franchise relative to transfer, sale, right to renew, termination discipline, noncompetitive covenants, site-control whether by sublease, collateral pledge of lease or otherwise, right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights.

B. Unless a separate agreement lasting no more than fifteen years has been voluntarily entered into for separate consideration, it is unlawful to, directly or indirectly, require a site control agreement or exclusive use agreement as a condition of:

- (1) awarding a franchise to a prospective motor vehicle dealer;
- (2) adding a line make or franchise to an existing dealer;
- (3) renewing the franchise of an existing dealer;
- (4) approving the relocation of an existing dealer's facility; or
- (5) approving the sale or transfer of ownership of a franchise.

C. As used in this section, "site control agreement" or "exclusive use agreement" means any agreement that has the effect of:

- (1) requiring a dealer to establish or maintain exclusive dealership facilities;
- (2) restricting the ability of a dealer or a dealer's lessor to transfer, sell, lease or change the use of the dealership premises; or
- (3) preventing or attempting to prevent a dealer from acquiring, adding or maintaining a sales or service operation for another line make of motor

vehicles at the same or expanded facility at which the dealer currently operates a dealership, provided that the dealer complies with any reasonable facilities requirements of the manufacturer, successor manufacturer or distributor."

Chapter 38 Section 3 Laws 2010

Section 3. Section 57-16-9 NMSA 1978 (being Laws 1973, Chapter 6, Section 9, as amended) is amended to read:

"57-16-9. FRANCHISE RENEWAL--TERMINATION--ANTICIPATORY TERMINATION.--

A. Anything to the contrary notwithstanding, it is unlawful for the manufacturer, distributor or representative without due cause to fail to renew a franchise on terms then equally available to all its motor vehicle dealers or their prospective purchasers, to terminate a franchise or to restrict the transfer of a franchise unless the dealer receives fair and reasonable compensation for the value of the business. A prospective purchaser may enforce the provisions of this section whether or not the person is a dealer.

B. A public announcement by a manufacturer or distributor of an intention to cease manufacturing or distribution of a motor vehicle brand within three years of the announcement or upon expiration of a dealer's current franchise or selling agreement may at the option of an affected dealer be deemed an anticipatory involuntary termination of the dealer's franchise."

Chapter 38 Section 4 Laws 2010

Section 4. Section 57-16-9.2 NMSA 1978 (being Laws 1991, Chapter 49, Section 2, as amended) is amended to read:

"57-16-9.2. MOTOR VEHICLE DEALERS--TERMINATION OF FRANCHISE--RETURN OF INVENTORY.--

A. If on termination of a franchise the dealer delivers to the manufacturer or distributor the inventory, vehicle brand-specific tools, signage and other specialized systems, equipment and real estate required by the manufacturer that was purchased from the manufacturer or distributor and that is held by the dealer on the date of termination, the manufacturer or distributor shall pay to the dealer:

(1) the dealer cost of the new, unsold and undamaged motorcycles and motor vehicles from the current and immediately preceding two model years and purchased from the manufacturer or distributor within fourteen months prior to receipt of a notice of termination;

(2) an amount equal to ninety-five percent of the current price of new, unused and undamaged motorcycle attachments and motor vehicle repair parts;

(3) an amount equal to an additional five percent of the current price of new, unused and undamaged motorcycle attachments and motor vehicle repair parts, unless the manufacturer or distributor performs the handling, packing and loading of the parts, in which case no additional amount is required under this paragraph;

(4) the fair market value, determined by appraisal as if installed for continuous use in an operating dealership, of all vehicle brand-specific special tools, signage and other specialized systems and equipment required by the manufacturer or distributor for dealership operations. The fair market value will be determined by a qualified independent appraiser agreed upon by the manufacturer or distributor and the dealer unless the fair market value is mutually agreed upon by the parties; and

(5) the economic loss to the dealer resulting from idled or underused dealer facility real estate due to a manufacturer's involuntary termination, determined by any reasonable means, including appraisal, unless the dealer is in violation of the franchise agreement. Economic loss is presumed to be at least equal to the value of two years of dealer facility fair market rental value, as if the facility were an operating dealership; real estate property tax; and property insurance.

B. The manufacturer or distributor may subtract from the sum due under Subsection A of this section the amount of debts owed by the dealer to the manufacturer or distributor. The manufacturer or distributor and the dealer are each responsible for one-half of the cost of delivering the inventory to the manufacturer or distributor.

C. The manufacturer or distributor shall pay the amount due under this section before the sixty-first day after the day that the manufacturer or distributor receives inventory from the dealer.

D. On payment of the amount due under this section, title to the inventory is transferred to the manufacturer or distributor.

E. The provisions of this section shall not apply to recreational travel trailer or motor home manufacturers or dealers."

Chapter 38 Section 5 Laws 2010

Section 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

Approved March 8, 2010

LAWS 2010, CHAPTER 39

AN ACT

RELATING TO SPECIAL DISTRICTS; CREATING THE EASTERN NEW MEXICO WATER UTILITY AUTHORITY; ESTABLISHING POWERS AND DUTIES; PROVIDING FOR BONDING AUTHORITY; TRANSFERRING THE ASSETS AND LIABILITIES OF THE EASTERN NEW MEXICO RURAL WATER AUTHORITY.

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

Chapter 39 Section 1 Laws 2010

Section 1. SHORT TITLE.--This act may be cited as the "Eastern New Mexico Water Utility Authority Act".

Chapter 39 Section 2 Laws 2010

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) consistent with the goals of the statewide water plan, water systems should be planned for and constructed on a regional basis, in that regional water systems are able to take advantage of economies of scale;

(2) the costs of designing, purchasing, constructing, rehabilitating, renovating, improving, equipping, furnishing, operating and maintaining regional water systems have increased to a level that local financial resources are inadequate to meet all of the costs and that federal funding is crucial to complete a large scale water supply project in eastern new Mexico; and

(3) a water utility authority is necessary in eastern New Mexico to provide an organized structure to work with state, local and federal agencies to complete a water delivery system from the Ute Reservoir to local governments.

B. The purposes of the Eastern New Mexico Water Utility Authority Act are:

(1) to create a water utility authority to develop and construct a water delivery system based on a funding formula whereby up to seventy-five percent of the overall capital cost of the system is to be paid for by the federal government, fifteen percent is to be paid for by the state of New Mexico and ten percent is to be paid for by

the local governments that have the power to appoint members to the board of the authority; and

(2) to create an authority that will deliver water to the local governments within the boundaries of the authority but that will not compete with local governments for rights to deliver water to ultimate end-users.

Chapter 39 Section 3 Laws 2010

Section 3. DEFINITIONS.--As used in the Eastern New Mexico Water Utility Authority Act:

- A. "authority" means the eastern New Mexico water utility authority; and
- B. "board" means the board of directors of the authority.

Chapter 39 Section 4 Laws 2010

Section 4. EASTERN NEW MEXICO WATER UTILITY AUTHORITY--CREATED.--

A. The "eastern New Mexico water utility authority" is created coextensive with the boundaries of Curry and Roosevelt counties and the territory physically occupied by the water facilities of the authority to plan, design, develop, purchase, acquire, own, operate, establish, construct and maintain the eastern New Mexico rural water system pipelines and waterworks to supply water for domestic, commercial, non-irrigated agricultural and industrial purposes by any available means to persons within and without the boundaries of the authority.

B. The eastern New Mexico water utility authority is created for the benefit of the seven members of the eastern New Mexico rural water authority, including Curry county, the city of Clovis, the city of Portales, the city of Texico, the town of Melrose, the town of Elida and the village of Grady.

Chapter 39 Section 5 Laws 2010

Section 5. BOARD--APPOINTMENT--TERMS.--

A. The board shall consist of seven members, each of whom shall reside within the boundaries of the authority, appointed as follows:

(1) three board members appointed by the Clovis city commission for a term of two years; provided, however, that two of the initial members shall be appointed for a term of one year for the purpose of having a staggered board;

(2) two board members appointed by the Portales city council for a term of two years; provided, however, that one of the initial members shall be appointed for a term of one year for the purpose of having a staggered board;

(3) one board member appointed for a term of two years by the Curry county commission; and

(4) one board member appointed for a term of one year on a rotating basis and in the following order by:

(a) the Texico city council;

(b) the Melrose village council;

(c) the Elida village council; and

(d) the Grady village council.

B. A vacancy occurring by other than expiration of a term shall be filled in the same manner as the original appointment, but only for the unexpired term.

Chapter 39 Section 6 Laws 2010

Section 6. BOARD--POWERS--DUTIES.--

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

(1) adoption of board rules, policies and procedures;

(2) ratification of acquisition of property;

(3) initiation or continuation of legal action, except that initiation and filing of liens for unpaid rates and charges and suits for payment thereof and discontinuance of service for failure to pay such rates and charges may be delegated;

(4) establishment of fees, tolls, rates or charges; and

(5) issuance of revenue bonds.

B. Meetings of the board shall be held at the call of the chair or whenever three members shall so request in writing. A majority of members then serving constitutes a quorum for the transaction of any business. Except as provided in Subsection C of this section, the affirmative vote of at least a majority of a quorum

present shall be necessary for any action to be taken by the board. A vacancy in the membership of the board shall not impair the right of a quorum to exercise all rights and perform all duties of the board.

C. The non-delegable powers and duties provided in Subsection A of this section shall only be effective upon resolution passed by a supermajority of five members of the board.

D. The board shall promulgate and adhere to rules, policies and procedures that govern its conduct.

E. A member of the board having a financial interest or possible interest in the outcome of any policy, decision or determination before the board shall be disqualified from voting on the issue. A member's status as a ratepayer or customer of the authority shall not be deemed to constitute a financial interest or possible interest for the purposes of this section.

F. Subject to Subsections B through D of this section, the board may:

(1) adopt bylaws;

(2) fix the time and place of meetings and the method of providing notice of the meetings in accordance with the Open Meetings Act;

(3) promulgate orders, resolutions, policies and rules necessary for the governance and management of the affairs of the authority and the execution of the powers vested in the authority;

(4) maintain offices at a place as the board may designate;

(5) employ a director who may employ and retain necessary staff;

(6) establish user classifications;

(7) fix and from time to time increase or decrease water rates, fees or other charges for water delivery or other related services or facilities operated or made available by the authority, subject to the following conditions:

(a) the rates, tolls or charges shall be uniform for all counties and municipalities that have the power to appoint a member to the board;

(b) until paid, all rates, tolls or charges constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of New Mexico for the foreclosure of real estate mortgages and shall not be subject to any limitations period, statutory or otherwise;

(c) the board shall prescribe and enforce rules by which properties shall be connected with and disconnected from the facilities of the authority, including payment plans to avoid discontinuing service to delinquent accounts;

(d) after giving reasonable notice, the board shall shut off or discontinue service for unauthorized connections, illegal connections or connections for which rates, tolls or other charges are delinquent in payment. The board may file suit in a court of competent jurisdiction to recover costs associated with an unauthorized, illegal or delinquent connection, including the cost of water delivered, charges for connection and disconnection, damages and attorney fees; and

(e) the provisions of Subparagraphs (b) and (c) of this paragraph are not applicable to counties and municipalities that have the power to appoint a member to the board; and

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

Chapter 39 Section 7 Laws 2010

Section 7. AUTHORITY--POWERS.--The authority is a body politic and corporate and a political subdivision of the state. The authority may:

- A. sue and be sued;
- B. enter into contracts;
- C. borrow money and issue revenue bonds;
- D. acquire, dispose of or encumber real and personal property and any interest in them, including leases, easements and water rights from a willing seller only;
- E. design, develop, construct, operate, maintain, purchase or contract for water systems and pipelines to connect systems and sources with the authority's customers;
- F. be allowed a water use planning period not to exceed forty years and may hold water rights based on a water development plan submitted to and approved by the state engineer the implementation of which shall not exceed forty years from the date of the application to change the place or purpose of use of an acquired water right;
- G. have and exercise the power of eminent domain for the limited purpose of this subsection, within the boundaries of the authority and in Quay county and in the manner provided by law for the condemnation of private property as the last resort for

public use with just compensation. The authority shall not acquire water rights through eminent domain. The authority shall not take any property unless it is necessary for rights of way and easements and for the use and placement of facilities and infrastructure elements, including pipelines, structures, pump stations and related appurtenances;

H. construct and maintain works and establish and maintain facilities across or along any public street or highway and through any vacant public lands that are the property of the state and construct works and establish and maintain facilities across any stream of water or watercourse, all in accordance with applicable state and federal permitting authority;

I. have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this section. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of the Eastern New Mexico Water Utility Authority Act; and

J. not have power or rights over any property, infrastructure or operations of a county or municipality that has the power to appoint a member to the board.

Chapter 39 Section 8 Laws 2010

Section 8. ACCEPTANCE OF ASSETS AND LIABILITIES OF EXISTING WATER SERVICE PROVIDERS--ACQUISITION OF WATER RIGHTS.--

A. The authority may accept a transfer of assets and liabilities upon the request, and following the legal dissolution, of an entity that is listed below or formed pursuant to one of the following statutes and that provides water service, subject to any other statutory requirements for such dissolution and transfer:

(1) the Water and Sanitation District Act;

(2) a water and natural gas association formed pursuant to Sections 3-28-1 through 3-28-22 NMSA 1978;

(3) a water users' association formed pursuant to Sections 73-5-1 through 73-5-9 NMSA 1978;

(4) the Nonprofit Corporation Act;

(5) the Public Improvement District Act;

(6) a corporation formed pursuant to Sections 62-2-1 through 62-2-22 NMSA 1978, the Business Corporation Act or the Cooperative Association Act; or

(7) an association or mutual domestic water consumers association organized pursuant to Laws 1947, Chapter 206, Laws 1949, Chapter 79 or Laws 1951, Chapter 52, as well as any association organized under the provisions of the Sanitary Projects Act.

B. Upon the transfer of the assets and liabilities of an entity listed in Subsection A of this section to the authority, the area within the boundaries of the authority serviced by the dissolved entity shall become part of the authority's service area.

C. When a water right is included in the assets and liabilities of an entity listed in Subsection A of this section that are transferred to the authority, or upon the acquisition of a water right by the authority, the authority shall file a change of ownership form with the state engineer and shall apply to the state engineer to combine and commingle the transferred or acquired water right with the authority's existing water rights and contract rights to water.

Chapter 39 Section 9 Laws 2010

Section 9. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. Revenue bonds may be issued by the authority:

(1) for acquiring real and personal property needed for an authority project, including the purchase of water rights;

(2) for constructing, extending, enlarging, bettering, repairing, equipping or otherwise improving a water project;

(3) for establishing or increasing reasonable reserve or sinking funds to secure the payment of the bonds;

(4) to pay costs of issuance of the bonds;

(5) to refund revenue bonds; or

(6) for any combination of those purposes.

B. The authority may pledge irrevocably any or all of the net revenues from the operation of its water system for payment of the interest on and principal of the revenue bonds.

C. Except for the purpose of refunding previous revenue bond issues, the authority shall not sell revenue bonds payable from pledged revenues after the expiration of two years from the date of the resolution authorizing the issuance of the

bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue.

D. The authority shall not impair the rights of any holders of bonds or other obligations payable from the net revenues of the water system previously issued or incurred by the authority.

E. If required by the terms, covenants and provisions of revenue bonds or other obligations previously issued by the authority, all additional bonds or other obligations issued or incurred by the authority pursuant to the Eastern New Mexico Water Utility Authority Act shall contain any required terms, covenants or provisions necessary to avoid impairment of the previously issued or incurred bonds or other obligations.

Chapter 39 Section 10 Laws 2010

Section 10. USE OF PROCEEDS OF REVENUE BOND ISSUE.--It is unlawful to divert, use or expend any money received from the issuance of revenue bonds for any purpose other than the purpose for which the revenue bonds were issued.

Chapter 39 Section 11 Laws 2010

Section 11. REVENUE BONDS--TERMS.--Revenue bonds:

A. may have interest, appreciated principal value or any part thereof payable at intervals or at maturity as may be determined by the authority;

B. may be subject to prior redemption at the authority's option at such time or times and upon such terms and conditions with or without the payment of such premium or premiums as may be determined by the authority;

C. may mature at any time or times not exceeding forty years after the date of issuance;

D. may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in such other form as may be determined by the authority;

E. shall be sold for cash at above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act; and

F. may be sold at public or negotiated sale.

Chapter 39 Section 12 Laws 2010

Section 12. EXEMPTION FROM TAXATION.--The bonds authorized by the Eastern New Mexico Water Utility Authority Act and the income from the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

Chapter 39 Section 13 Laws 2010

Section 13. RESOLUTION AUTHORIZING REVENUE BONDS.--At a regular or special meeting called for the purpose of issuing revenue bonds, the board may, by an affirmative vote of a supermajority of five members of the board, adopt a resolution that authorizes the issuance of revenue bonds.

Chapter 39 Section 14 Laws 2010

Section 14. REVENUE BONDS NOT GENERAL OBLIGATIONS--
AUTHENTICATION.--

A. Revenue bonds or refunding revenue bonds issued as authorized in the Eastern New Mexico Water Utility Authority Act are:

(1) not general obligations of the state or other political subdivision of the state; and

(2) collectible only from the pledged net revenues of the water system, and each bond shall state that it is payable solely from the pledged net revenues of the water system and that the bondholders shall not look to any other fund of the state or political subdivision of the state for the payment of the interest and principal of the bond.

B. The bonds shall be executed by the chairperson of the board and may be authenticated by the secretary of the board or any public or private transfer agent or registrar or its successor that shall be named or otherwise designated by the board. The bonds may be executed as provided under the Uniform Facsimile Signature of Public Officials Act.

Chapter 39 Section 15 Laws 2010

Section 15. REVENUE BONDS--MANDATORY RATES FOR THE WATER SYSTEM--MANDAMUS--IMPAIRMENT OF PAYMENT.--

A. The authority shall establish rates for services rendered by the water system to provide revenue sufficient to meet the following requirements, and such rates shall remain in effect until the bond issue is liquidated. Revenue shall be sufficient to:

(1) pay all reasonable expenses of operation of the water system;

(2) pay all interest on the water system revenue bonds as it comes due;

(3) provide a sinking fund adequate to discharge the revenue bonds as they mature; and

(4) provide a capital fund for system improvements and replacements.

B. In the event the authority fails or refuses to establish rates for the water system as required in this section, any bondholder may apply to the district court or courts within which jurisdiction the system is located for a mandatory order requiring the authority to establish rates that will provide revenues adequate to meet the requirements of this section.

C. Any law that authorizes the pledge of any or all of the pledged water system net revenues to the payment of any revenue bonds issued pursuant to the Eastern New Mexico Water Utility Authority Act or that affects the pledged net revenues of the water system, or any law supplemental to or otherwise appertaining to that act, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds, unless the outstanding revenue bonds have been discharged in full or provision has been fully made for payment of the bonds.

Chapter 39 Section 16 Laws 2010

Section 16. BONDS--REFUNDING AUTHORIZATION.--

A. At any regular or special meeting called for the purpose of issuing refunding bonds, the board by a supermajority of five members of the board may adopt a resolution authorizing the issuance of the refunding bonds.

B. The authority may issue refunding bonds for the purpose of refinancing, paying and discharging all or any part of outstanding bonds or other obligations payable from the net revenues of the water system previously issued or incurred by the authority.

C. The authority may pledge irrevocably for the payment of interest and principal on refunding bonds the pledged net revenues of the water system.

D. Bonds for refunding and bonds for any purpose permitted by the Eastern New Mexico Water Utility Authority Act may be issued separately or issued in combination in one series or more.

Chapter 39 Section 17 Laws 2010

Section 17. REFUNDING BONDS--TERMS.--Refunding bonds:

A. may have interest, appreciated principal value or any part thereof payable at intervals or at maturity as may be determined by the authority;

B. may be subject to prior redemption at the authority's option at such time or times and upon such terms and conditions with or without the payment of premium or premiums as may be determined by the authority;

C. may mature at any time or times not exceeding forty years after the date of issuance;

D. may be serial in form and maturity or may consist of a single bond payable in one or more installments or may be in such other form as may be determined by the authority; and

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

Chapter 39 Section 18 Laws 2010

Section 18. REFUNDING BONDS--ESCROW.--

A. Refunding bonds issued pursuant to the Eastern New Mexico Water Utility Authority Act shall be authorized by resolution of the authority. Any bonds that are refunded under the provisions of this section shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise pertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

B. Provision shall be made for paying the bonds refunded at the time provided in this section. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds and may also be less than or the same as the principal amount of the bonds being refunded; provided that provision is duly and sufficiently made for payment of the refunded bonds.

C. The proceeds of refunding bonds, including any accrued interest and premium pertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation, to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with

the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium pertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest thereon, the principal thereof or both interest and principal as the authority may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other money available for its purpose. Any proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of or the principal and interest of which obligations are unconditionally guaranteed by the United States or in certificates of deposit of banks that are members of the federal deposit insurance corporation. Such proceeds and investments in escrow, together with any interest or other income to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date in connection with which the authority shall exercise a prior redemption option. Any purchaser of any refunding bond issued under the Eastern New Mexico Water Utility Authority Act is in no manner responsible for the application of the proceeds by the authority or any of its officers, agents or employees.

D. Refunding bonds may bear such additional terms and provisions as may be determined by the authority subject to the limitations in this section.

Chapter 39 Section 19 Laws 2010

Section 19. PUBLIC REGULATION COMMISSION AND STATE ENGINEER JURISDICTION.--

A. The authority is not subject to the jurisdiction of the public regulation commission or the terms and provisions of the Public Utility Act except as provided in Subsection B of this section.

B. The authority may elect by resolution adopted by its board to become subject to the jurisdiction of the public regulation commission and to the terms and provisions of the Public Utility Act; provided, however, that in no event shall Sections 62-9-1 through 62-9-7 NMSA 1978 apply to the authority when making such an election.

C. The authority shall be subject to the rules and regulations of the state engineer and the applicable articles of Chapter 72 NMSA 1978.

Chapter 39 Section 20 Laws 2010

Section 20. TEMPORARY PROVISION.--All functions, appropriations, money, records, contracts, equipment and other real and personal property pertaining to the eastern New Mexico rural water authority shall be transferred to the eastern New Mexico water utility authority. Debts of the eastern New Mexico rural water authority shall be debts of the eastern New Mexico water utility authority. The eastern New Mexico water utility authority shall not impair the rights of any bondholders of outstanding bonds of the eastern New Mexico rural water authority. All contractual obligations of the eastern New Mexico rural water authority and the counties and municipalities that have the power to appoint a member to the board of directors of the eastern New Mexico water utility authority shall be binding on the eastern New Mexico water utility authority. The public regulation commission shall audit the eastern New Mexico rural water authority prior to the transfer of money, assets and debts to the eastern New Mexico water utility authority.

Chapter 39 Section 21 Laws 2010

Section 21. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

House Bill 15, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 40

AN ACT

RELATING TO MOTOR VEHICLE DEALER FRANCHISING; MAKING CERTAIN UNFAIR ACTS AND PRACTICES UNLAWFUL FOR MOTOR VEHICLE MANUFACTURERS; DECLARING AN EMERGENCY.

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

Chapter 40 Section 1 Laws 2010

Section 1. Section 57-16-3 NMSA 1978 (being Laws 1973, Chapter 6, Section 3, as amended) is amended to read:

"57-16-3. DEFINITIONS.--As used in Chapter 57, Article 16 NMSA 1978:

A. "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;

B. "motor vehicle dealer" or "dealer" means any person who sells or solicits or advertises the sale of new or used motor vehicles. "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;

C. "person" means every natural person, partnership, corporation, association, trust, estate or any other legal entity;

D. "prospective purchaser" means a person who has a bona fide written agreement to purchase a franchise;

E. "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;

F. "distributor" means any person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer;

G. "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;

H. "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;

I. "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;

J. "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;

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. "recreational vehicle" means any motor vehicle with a camping body that either has its own motive power or is drawn by another vehicle;

M. "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;

N. "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;

O. "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;

P. "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;

Q. "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;

R. "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;

S. "predecessor manufacturer" means a manufacturer that is acquired, succeeded by or assumed by a successor manufacturer; and

T. "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."

Chapter 40 Section 2 Laws 2010

Section 2. Section 57-16-8 NMSA 1978 (being Laws 1973, Chapter 6, Section 8) is amended to read:

"57-16-8. UNREASONABLE RESTRICTIONS--SITE CONTROL AGREEMENTS-
-EXCLUSIVE USE AGREEMENTS.--

A. It is unlawful to, directly or indirectly, impose unreasonable restrictions on the motor vehicle dealer or franchise relative to transfer, sale, right to renew, termination discipline, noncompetitive covenants, site-control whether by sublease, collateral pledge of lease or otherwise, right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights.

B. Unless a separate agreement lasting no more than fifteen years has been voluntarily entered into for separate consideration, it is unlawful to, directly or indirectly, require a site control agreement or exclusive use agreement as a condition of:

(1) awarding a franchise to a prospective motor vehicle dealer;

(2) adding a line make or franchise to an existing dealer;

(3) renewing the franchise of an existing dealer;

(4) approving the relocation of an existing dealer's facility; or

(5) approving the sale or transfer of ownership of a franchise.

C. As used in this section, "site control agreement" or "exclusive use agreement" means any agreement that has the effect of:

(1) requiring a dealer to establish or maintain exclusive dealership facilities;

(2) restricting the ability of a dealer or a dealer's lessor to transfer, sell, lease or change the use of the dealership premises; or

(3) preventing or attempting to prevent a dealer from acquiring, adding or maintaining a sales or service operation for another line make of motor vehicles at the same or expanded facility at which the dealer currently operates a dealership, provided that the dealer complies with any reasonable facilities requirements of the manufacturer, successor manufacturer or distributor."

Chapter 40 Section 3 Laws 2010

Section 3. Section 57-16-9 NMSA 1978 (being Laws 1973, Chapter 6, Section 9, as amended) is amended to read:

"57-16-9. FRANCHISE RENEWAL--TERMINATION--ANTICIPATORY TERMINATION.--

A. Anything to the contrary notwithstanding, it is unlawful for the manufacturer, distributor or representative without due cause to fail to renew a franchise on terms then equally available to all its motor vehicle dealers or their prospective purchasers, to terminate a franchise or to restrict the transfer of a franchise unless the dealer receives fair and reasonable compensation for the value of the business. A prospective purchaser may enforce the provisions of this section whether or not the person is a dealer.

B. A public announcement by a manufacturer or distributor of an intention to cease manufacturing or distribution of a motor vehicle brand within three years of the announcement or upon expiration of a dealers' current franchise or selling agreement may at the option of an affected dealer be deemed an anticipatory involuntary termination of the dealer's franchise."

Chapter 40 Section 4 Laws 2010

Section 4. Section 57-16-9.2 NMSA 1978 (being Laws 1991, Chapter 49, Section 2, as amended) is amended to read:

"57-16-9.2. MOTOR VEHICLE DEALERS--TERMINATION OF FRANCHISE--RETURN OF INVENTORY.--

A. If on termination of a franchise the dealer delivers to the manufacturer or distributor the inventory, vehicle brand-specific tools, signage and other specialized systems, equipment and real estate required by the manufacturer that was purchased from the manufacturer or distributor and that is held by the dealer on the date of termination, the manufacturer or distributor shall pay to the dealer:

(1) the dealer cost of the new, unsold and undamaged motorcycles and motor vehicles from the current and immediately preceding two model years and purchased from the manufacturer or distributor within fourteen months prior to receipt of a notice of termination;

(2) an amount equal to ninety-five percent of the current price of new, unused and undamaged motorcycle attachments and motor vehicle repair parts;

(3) an amount equal to an additional five percent of the current price of new, unused and undamaged motorcycle attachments and motor vehicle repair parts, unless the manufacturer or distributor performs the handling, packing and loading of the parts, in which case no additional amount is required under this paragraph;

(4) the fair market value, determined by appraisal as if installed for continuous use in an operating dealership, of all vehicle brand-specific special tools, signage and other specialized systems and equipment required by the manufacturer or distributor for dealership operations. The fair market value will be determined by a qualified independent appraiser agreed upon by the manufacturer or distributor and the dealer unless the fair market value is mutually agreed upon by the parties; and

(5) the economic loss to the dealer resulting from idled or underused dealer facility real estate due to a manufacturer's involuntary termination, determined by any reasonable means, including appraisal, unless the dealer is in violation of the franchise agreement. Economic loss is presumed to be at least equal to the value of two years of dealer facility fair market rental value, as if the facility were an operating dealership; real estate property tax; and property insurance.

B. The manufacturer or distributor may subtract from the sum due under Subsection A of this section the amount of debts owed by the dealer to the manufacturer or distributor. The manufacturer or distributor and the dealer are each responsible for one-half of the cost of delivering the inventory to the manufacturer or distributor.

C. The manufacturer or distributor shall pay the amount due under this section before the sixty-first day after the day that the manufacturer or distributor receives inventory from the dealer.

D. On payment of the amount due under this section, title to the inventory is transferred to the manufacturer or distributor.

E. The provisions of this section shall not apply to recreational travel trailer or motor home manufacturers or dealers."

Chapter 40 Section 5 Laws 2010

Section 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

House Bill 93, aa, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 41

AN ACT

RELATING TO EDUCATION; ENACTING THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; CREATING THE MILITARY CHILDREN EDUCATION COMPACT STATE COUNCIL; PROVIDING POWERS AND DUTIES; PROVIDING COORDINATION AMONG STATES TO MEET THE EDUCATIONAL NEEDS OF MILITARY CHILDREN.

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

Chapter 41 Section 1 Laws 2010

Section 1. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN--ENTERED INTO.--The "Interstate Compact on Educational Opportunity for Military Children" is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

"INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

ARTICLE 1

PURPOSE

It is the purpose of the Interstate Compact on Educational Opportunity for Military Children to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance and age requirements;

B. facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment;

C. facilitating the qualification and eligibility for enrollment, educational programs and participation in extracurricular, academic, athletic and social activities;

D. facilitating the on-time graduation of children of military families;

E. providing for the promulgation and enforcement of administrative rules implementing the provisions of that compact;

F. providing for the uniform collection and sharing of information between and among member states, schools and military families under that compact;

G. promoting coordination between that compact and other compacts affecting military children; and

H. promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE 2

DEFINITIONS

As used in the Interstate Compact on Educational Opportunity for Military Children:

A. "active duty" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

B. "children of military families" means school-aged children enrolled in kindergarten through twelfth grade in the household of an active duty member;

C. "compact commissioner" means the voting representative of each compacting state appointed pursuant to Article 8 of the Interstate Compact on Educational Opportunity for Military Children;

D. "deployment" means the period one month prior to the service members' departures from their home stations on military orders through six months after return to their home stations;

E. "education records" means records, files and data that are directly related to a student and maintained by a school or local education agency, including records encompassing all the material kept in a student's cumulative folder such as

general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs;

F. "extracurricular activity" means a voluntary activity sponsored by a school or local education agency or an organization sanctioned by a local education agency. "Extracurricular activity" includes preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities;

G. "interstate commission" means the interstate commission on educational opportunity for military children that is created under Article 9 of the Interstate Compact on Educational Opportunity for Military Children;

H. "local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions;

I. "member state" means a state that has enacted the Interstate Compact on Educational Opportunity for Military Children;

J. "military installation" means a base, camp, post, station, yard, center or homeport facility for any ship or other activity under the jurisdiction of the United States department of defense, including any leased facility, that is located within any of the several states, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory. The term does not include any facility used primarily for civil works, rivers and harbors projects or flood control projects;

K. "non-member state" means a state that has not enacted the Interstate Compact on Educational Opportunity for Military Children;

L. "receiving state" means the state to which a child of a military family is sent or brought or caused to be sent or brought;

M. "rule" means a written statement by the interstate commission promulgated pursuant to Article 12 of the Interstate Compact on Educational Opportunity for Military Children that is of general applicability, implements, interprets or prescribes a policy or provision of that compact or an organizational, procedural or practice requirement of the interstate commission and includes the amendment, repeal or suspension of an existing rule;

N. "sending state" means the state from which a child of a military family is sent or brought or caused to be sent or brought;

O. "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory;

P. "student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade;

Q. "transition" means:

(1) the formal and physical process of transferring from school to school; or

(2) the period of time in which a student moves from one school in the sending state to another school in the receiving state;

R. "uniformed services" means the army, navy, air force, marine corps, coast guard and the commissioned corps of the national oceanic and atmospheric administration and United States public health service; and

S. "veteran" means a person who served in the uniformed services and who was discharged or released from the uniformed services under conditions other than dishonorable.

ARTICLE 3

APPLICABILITY

A. Except as otherwise provided in Subsection B of this article, the Interstate Compact on Educational Opportunity for Military Children shall apply to the children of:

(1) active duty members of the uniformed services, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

(2) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

(3) members of the uniformed services who die on active duty or as a result of injuries sustained while on active duty and extending for a period of one year after death.

B. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall only apply to local education agencies.

C. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall not apply to the children of:

(1) inactive members of the national guard and military reserves;

(2) members of the uniformed services now retired, except as provided in Subsection A of this article;

(3) veterans of the uniformed services, except as provided in Subsection A of this article; and

(4) other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE 4

EDUCATIONAL RECORDS AND ENROLLMENT

A. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial education records containing uniform information as determined by the interstate commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records, pending validation by the official records, as quickly as possible.

B. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official education records to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

C. Compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the interstate commission for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

D. Students shall be allowed to continue their enrollment at a grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest

grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on the student's validated level from an accredited school in the sending state.

ARTICLE 5

PLACEMENT AND ATTENDANCE

A. When a student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career-challenging courses should be paramount when considering placement. This subsection does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include gifted and talented programs and English as a second language. This subsection does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current individualized education program. In compliance with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to education. This subsection does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Local education agency administrative officials shall have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from or has immediately returned from deployment to a combat zone or combat support posting

shall be granted additional excused absences, at the discretion of the local education agency superintendent, to visit with the student's parent or legal guardian.

ARTICLE 6

ELIGIBILITY

A. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

B. A local education agency shall be prohibited from charging local tuition to a military child who is in transition and is placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

C. A military child who is in transition and is placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which the child was enrolled while residing with the custodial parent.

D. State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE 7

GRADUATION

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time;

B. receiving states shall accept exit or end-of-course exams required for graduation from the sending state, national norm-referenced achievement tests or alternative testing in lieu of testing requirements for graduation in the receiving state. In the event the alternatives in this subsection and Subsection A of this article cannot be accommodated by the receiving state for a student transferring in the student's senior year, then the provisions of Subsection C of this article shall apply; and

C. if a military student transferring at the beginning of or during the military student's senior year is ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of the Interstate Compact on Educational Opportunity for Military Children, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Subsections A and B of this article.

ARTICLE 8

STATE COORDINATION

A. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children and interstate commission activities. While each member state may determine the membership of its own state council, its membership must include: the secretary of public education, the superintendent of a school district with a high concentration of military children, one representative from a military installation, one representative from the executive branch of government and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of the Interstate Compact on Educational Opportunity for Military Children.

C. The compact commissioner responsible for the administration and management of the state's participation in the Interstate Compact on Educational Opportunity for Military Children shall be appointed by the governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated in this article shall be ex-officio nonvoting members of the state council, unless either is already a full voting member of the state council.

ARTICLE 9

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "interstate commission on educational opportunity for military children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

A. be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in the Interstate Compact on Educational Opportunity for Military Children and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of that compact;

B. consist of one voting representative from each member state who shall be that state's compact commissioner.

(1) Each member state represented at a meeting of the interstate commission is entitled to one vote.

(2) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(3) A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from the person's state for a specified meeting.

(4) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication;

C. consist of ex-officio nonvoting representatives who are members of interested organizations. The ex-officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States department of defense, the education commission of the states, the interstate agreement on qualification of educational personnel and other interstate compacts affecting the education of children of military members;

D. meet at least once each calendar year. The chair may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings;

E. establish an executive committee whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the

interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules and other such duties as deemed necessary. The United States department of defense shall serve as an ex-officio nonvoting member of the executive committee;

F. establish bylaws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests;

G. give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the Interstate Compact on Educational Opportunity for Military Children. The interstate commission and its committees may close a meeting, or a portion of a meeting, if it determines by a two-thirds' vote that an open meeting would be likely to:

(1) relate solely to the interstate commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by federal and state statute;

(3) disclose trade secrets or commercial or financial information that is privileged or confidential;

(4) involve accusing a person of a crime or formally censuring a person;

(5) disclose information of a personal nature if the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigative records compiled for law enforcement purposes; or

(7) specifically relate to the interstate commission's participation in a civil action or other legal proceeding;

H. cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, that is closed pursuant to this subsection. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for the actions, including a description of the views expressed and the record of

a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission;

I. collect standardized data concerning the educational transition of the children of military families under the Interstate Compact on Educational Opportunity for Military Children as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. The methods of data collection, exchange and reporting shall, insofar as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules; and

J. create a process that permits military officials, education officials and parents to inform the interstate commission if and when there are alleged violations of the Interstate Compact on Educational Opportunity for Military Children or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subsection shall not be construed to create a private right of action against the interstate commission or any member state.

ARTICLE 10

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission may:

- A. provide for dispute resolution among member states;
- B. promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in the Interstate Compact on Educational Opportunity for Military Children. The rules shall be binding in the compact states to the extent and in the manner provided in that compact;
- C. issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact and its bylaws, rules and actions;
- D. enforce compliance with the compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including the use of judicial process;
- E. establish and maintain offices that shall be located within one or more of the member states;
- F. purchase and maintain insurance and bonds;
- G. borrow, accept, hire or contract for services of personnel;

H. establish and appoint committees, including an executive committee as required by Subsection E of Article 9 of the Interstate Compact on Educational Opportunity for Military Children, that shall have the power to act on behalf of the interstate commission in carrying out its powers and duties under that compact;

I. elect or appoint officers, attorneys, employees, agents or consultants and fix their compensation, define their duties and determine their qualifications;

J. establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

K. accept donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of them;

L. lease, purchase, accept contributions or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed;

M. sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

N. establish a budget and make expenditures;

O. adopt a seal and bylaws governing the management and operation of the interstate commission;

P. report annually to the legislatures, governors, judiciaries and state councils of the member states concerning the activities of the interstate commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the interstate commission;

Q. coordinate education, training and public awareness regarding the Interstate Compact on Educational Opportunity for Military Children, its implementation and operation for officials and parents involved in such activity;

R. establish uniform standards for the reporting, collecting and exchanging of data;

S. maintain corporate books and records in accordance with the bylaws;

T. perform such functions as may be necessary or appropriate to achieve the purposes of the Interstate Compact on Educational Opportunity for Military Children; and

U. provide for the uniform collection and sharing of information between and among member states, schools and military families under the Interstate Compact on Educational Opportunity for Military Children.

ARTICLE 11

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Interstate Compact on Educational Opportunity for Military Children, including:

- (1) establishing the fiscal year of the interstate commission;
- (2) establishing an executive committee and other committees as may be necessary;
- (3) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission;
- (4) providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;
- (5) establishing the titles and responsibilities of the officers and staff of the interstate commission;
- (6) providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of that compact after paying and reserving all of its debts and obligations; and
- (7) providing start-up rules for initial administration of the Interstate Compact on Educational Opportunity for Military Children.

B. The interstate commission shall, by a majority of the members, elect annually from among its members a chair, a vice chair and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice chair shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

C. The executive committee shall have such authority and duties as may be set forth in the bylaws, including:

(1) managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

(2) overseeing an organizational structure within, and appropriate procedures for, the interstate commission to provide for the creation of rules, operating procedures and administrative and technical support functions; and

(3) planning, implementing and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the interstate commission.

D. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

E. The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend the interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the person.

ARTICLE 12

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Interstate Compact on Educational Opportunity for Military Children. If the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of that compact, or the powers granted under that compact, then such an action by the interstate commission shall be invalid and have no force or effect.

B. Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" (1981), Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the interstate commission.

C. Not later than thirty days after the date a rule is promulgated, any person may file a petition for judicial review of the rule, provided that the filing of the petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the Interstate Compact on Educational Opportunity for Military Children, then the rule shall have no further force and effect in any compacting state.

ARTICLE 13

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

A. All courts shall take judicial notice of the Interstate Compact on Educational Opportunity for Military Children and the rules promulgated under that compact in any judicial or administrative proceeding in a member state pertaining to the subject matter of that compact that may affect the powers, responsibilities or actions of the interstate commission.

B. The interstate commission shall be entitled to receive all service of process in any proceeding provided in Subsection A of this article and shall have standing to intervene in the proceeding for all purposes.

C. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Interstate Compact on Educational Opportunity for Military Children or the bylaws or promulgated rules, the interstate commission shall:

(1) provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the means by which the defaulting state shall cure its default; and

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

D. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Interstate Compact on Educational Opportunity for Military Children upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by that compact shall be terminated from 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 the default.

E. Suspension or termination of membership in the Interstate Compact on Educational Opportunity for Military Children 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 interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

F. The state that has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination.

G. The interstate commission shall not bear any costs relating to any state that has been found to be in default or that has been suspended or terminated from the Interstate Compact on Educational Opportunity for Military Children unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

H. The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices.

I. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the Interstate Compact on Educational Opportunity for Military Children and that may arise among member states and between member and non-member states.

J. The interstate commission shall promulgate a rule providing for both mediation and dispute resolution for disputes as appropriate.

K. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Interstate Compact on Educational Opportunity for Military Children.

L. The interstate commission may, by majority vote of the members, initiate legal action to enforce compliance with the provisions of the Interstate Compact on Educational Opportunity for Military Children and its promulgated rules and bylaws against a member state in default. The venue for the action shall be consistent with the determination in other interstate compacts to which the state of New Mexico is a member under the laws of the state of New Mexico.

M. The remedies in the Interstate Compact on Educational Opportunity for Military Children shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or under the regulation of a profession.

ARTICLE 14

FINANCING OF THE INTERSTATE COMMISSION

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

B. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

C. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the obligations; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member state.

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

ARTICLE 15

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The Interstate Compact on Educational Opportunity for Military Children shall become effective and binding upon legislative enactment of that compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007. Thereafter, it shall become effective and binding as to any other member state upon enactment of that compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of that compact by all states.

C. The interstate commission may propose amendments to the Interstate Compact on Educational Opportunity for Military Children for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE 16

WITHDRAWAL AND DISSOLUTION

A. Once effective, the Interstate Compact on Educational Opportunity for Military Children shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from that compact by specifically repealing the statute that enacted that compact into law.

B. Withdrawal from the Interstate Compact on Educational Opportunity for Military Children shall be by the enactment of a statute repealing that compact.

C. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing the Interstate Compact on Educational Opportunity for Military Children in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt of the notice.

D. The withdrawing state is responsible for all assessments, obligations and liabilities incurred on its behalf through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

E. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Interstate Compact on Educational Opportunity for Military Children or upon such later date as determined by the interstate commission.

F. The Interstate Compact on Educational Opportunity for Military Children shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in that compact to one member state.

G. Upon the dissolution of the Interstate Compact on Educational Opportunity for Military Children, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded, and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE 17

SEVERABILITY AND CONSTRUCTION

A. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of that compact shall be enforceable.

B. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall be liberally construed to effectuate its purposes.

C. Nothing in the Interstate Compact on Educational Opportunity for Military Children shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE 18

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Nothing in the Interstate Compact on Educational Opportunity for Military Children prevents the enforcement of any other law of a member state.

B. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

C. All agreements between the interstate commission and the member states are binding in accordance with their terms.

D. In the event any provision of the Interstate Compact on Educational Opportunity for Military Children exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state."

Chapter 41 Section 2 Laws 2010

Section 2. MILITARY CHILDREN EDUCATION COMPACT STATE COUNCIL-- MILITARY FAMILY EDUCATION LIAISON--COMPACT COMMISSIONER.--

A. The "military children education compact state council" is created to provide for the coordination among state agencies, local education agencies and military installations concerning the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children.

B. The military children education compact state council shall designate a "military family education liaison" to assist military families and the state in facilitating the implementation of the Interstate Compact on Educational Opportunity for Military Children. The military family education liaison shall serve as an ex-officio nonvoting member of the military children education compact state council, unless the person designated as the liaison is already a voting member of the council.

C. The governor shall appoint a compact commissioner to administer the Interstate Compact on Educational Opportunity for Military Children in New Mexico and to represent the state on the interstate commission. The compact commissioner shall serve as an ex-officio nonvoting member of the military children education compact state council, unless the person appointed as the compact commissioner is already a voting member of the council.

D. Members of the military children education compact state council shall not receive per diem and mileage or other compensation, perquisite or allowance.

House Bill 24, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 42

AN ACT

RELATING TO THE MOTOR VEHICLE CODE; PROVIDING FOR THE RENEWAL OF DRIVER'S LICENSES OR IDENTIFICATION CARDS BY ALTERNATIVE MEANS; PROVIDING FOR THE EXPIRATION OF DRIVER'S LICENSES THIRTY DAYS FOLLOWING THE HOLDER'S TWENTY-FIRST OR SEVENTY-FIFTH BIRTHDAY; PROVIDING FOR FLEXIBILITY IN THE EXPIRATION DATES OF IDENTIFICATION CARDS; AUTHORIZING PRORATION OF FEES.

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

Chapter 42 Section 1 Laws 2010

Section 1. Section 66-5-14 NMSA 1978 (being Laws 1978, Chapter 35, Section 236, as amended) is amended to read:

"66-5-14. EXAMINATION OF APPLICANTS.--

A. The department shall examine every first-time applicant for a driver's license or a motorcycle endorsement and may examine other applicants for a driver's license or motorcycle endorsement. The examination shall include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of the traffic laws of this state and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle except as provided in Section 66-5-7 NMSA 1978 and any further physical and mental examination as the department finds necessary to determine the applicant's fitness to operate a motor vehicle or motorcycle safely upon the highways.

B. Regardless of whether an applicant is examined under Subsection A of this section, the department shall test the eyesight of every applicant for a driver's license or motorcycle endorsement unless the application is for renewal of a license or endorsement and is made by mail or telephonic or electronic means.

C. The department is authorized to contract with other persons for conduct of tests of the applicant's ability to exercise ordinary and reasonable control of a motor vehicle. Any such contract may be terminated by the secretary upon written notice for

failure of the contractor to perform the contractor's duties to the secretary's satisfaction. Contracts under this subsection may provide for the form of notice and the length of the period, if any, between the notice and the effective date of the termination.

D. For purposes of this section, a "first-time applicant" means an applicant other than a person who:

(1) holds a currently valid driver's license issued by New Mexico or any other jurisdiction at the time of application; or

(2) does not hold a currently valid driver's license issued by New Mexico or any other jurisdiction at the time of application but who held a valid driver's license issued by New Mexico or any other jurisdiction within one year prior to the date of application if that driver's license was not revoked under any provision of the Motor Vehicle Code or suspended, canceled or revoked under the laws of any other jurisdiction for reasons similar to those for which revocation is authorized under the Motor Vehicle Code."

Chapter 42 Section 2 Laws 2010

Section 2. Section 66-5-21 NMSA 1978 (being Laws 1978, Chapter 35, Section 243, as amended) is amended to read:

"66-5-21. EXPIRATION OF LICENSE--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--RENEWAL.--

A. Except as provided in Subsection B or D of this section, Section 66-5-19 NMSA 1978 and Section 66-5-67 NMSA 1978, all driver's licenses shall be issued for a period of four years, and each license shall expire thirty days after the applicant's birthday in the fourth year after the effective date of the license or shall expire thirty days after the applicant's seventy-fifth birthday. A license issued pursuant to Section 66-5-19 NMSA 1978 shall expire thirty days after the applicant's birthday in the year in which the license expires. Each license is renewable within ninety days prior to its expiration or at an earlier date approved by the department. The fee for the license shall be as provided in Section 66-5-44 NMSA 1978. The department may provide for renewal by mail or telephonic or electronic means of a driver's license issued pursuant to the provisions of this subsection, pursuant to regulations adopted by the department that ensure adequate security measures to safeguard personal information that is obtained in the issuance of a driver's license. The department may require an examination upon renewal of the driver's license.

B. At the option of an applicant, a driver's license may be issued for a period of eight years, provided that the applicant:

(1) pays the amount required for a driver's license issued for a term of eight years;

(2) otherwise qualifies for a four-year driver's license; and

(3) will not reach the age of seventy-five during the last four years of the eight-year license period or reach the age of twenty-one during any year within the term of the license.

C. A driver's license issued pursuant to the provisions of Subsection B of this section shall expire thirty days after the applicant's birthday in the eighth year after the effective date of the license.

D. A driver's license issued prior to an applicant's twenty-first birthday shall expire thirty days after the applicant's twenty-first birthday. A driver's license issued prior to an applicant's twenty-first birthday may be issued for a period of up to five years.

E. The director may adopt regulations providing for the proration of driver's license fees and commercial driver's license fees due to shortened licensure periods permitted pursuant to Subsection A of Section 66-5-19 NMSA 1978 or for licensure periods authorized pursuant to the provisions of this section."

Chapter 42 Section 3 Laws 2010

Section 3. Section 66-5-403 NMSA 1978 (being Laws 1973, Chapter 269, Section 3, as amended) is amended to read:

"66-5-403. EXPIRATION OF IDENTIFICATION CARDS--DURATION--RENEWAL.--

A. Except as provided in Subsection B or C of this section, every identification card shall be issued for a period not to exceed four years and shall expire on the last day of the month of the identified person's birth in the fourth year after the effective date of the identification card.

B. An identification card may be renewed within ninety days prior to its expiration or at an earlier date approved by the department. An identification card may be renewed by mail or telephonic or electronic means pursuant to regulations adopted by the department. The regulations shall ensure adequate security measures to safeguard personal information that is obtained in the issuance of an identification card.

C. At the option of the applicant for an identification card, a card may be issued for a period of eight years, provided that the applicant pays the amount required for an identification card issued for a term of eight years. An identification card issued pursuant to the provisions of this subsection shall expire on the last day of the month of the applicant's birth in the eighth year after the effective date of the identification card. The identification card may be renewed within ninety days prior to its expiration."

Chapter 42 Section 4 Laws 2010

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

HCPAC/House Bill 25

Approved March 8, 2010

LAWS 2010, CHAPTER 43

AN ACT

RELATING TO MEDICAL ASSISTANCE; AMENDING A SECTION OF THE PUBLIC ASSISTANCE ACT TO ALLOW DOCTORS OF OSTEOPATHY AND PHARMACIST CLINICIANS TO MANAGE CARE IN THE MEDICAL-ASSISTANCE MEDICAL HOME PROGRAM.

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

Chapter 43 Section 1 Laws 2010

Section 1. Section 27-2-12.15 NMSA 1978 (being Laws 2009, Chapter 143, Section 1) is amended to read:

"27-2-12.15. MEDICAID, STATE CHILDREN'S HEALTH INSURANCE PROGRAM AND STATE COVERAGE INITIATIVE PROGRAM MEDICAL HOME WAIVER--RULEMAKING--APPLICATION FOR WAIVER OR STATE PLAN AMENDMENT.--

A. Subject to the availability of state funds and consistent with the federal Social Security Act, the department shall work with its contractors that administer the state's approved waiver programs to promote and, if practicable, develop a program called the "medical home program". The "medical home" is an integrated care management model that emphasizes primary medical care that is continuous, comprehensive, coordinated, accessible, compassionate and culturally appropriate. Care within the medical home includes primary care, preventive care and care management services and uses quality improvement techniques and information technology for clinical decision support. Components of the medical home model may include:

(1) assignment of recipients to a primary care provider, clinic or practice that will serve as a medical home;

(2) promotion of the health commons model of service delivery, whereby the medical home tracks recipients' primary care, specialty, behavioral health, dental health and social services needs as much as practicable;

(3) health education, health promotion, peer support and other services that may integrate with health care services to promote overall health;

(4) health risk or functional needs assessments for recipients;

(5) a method for reporting on the effectiveness of the medical home model and its effect upon recipients' utilization of health care services and the associated cost of utilization of those services;

(6) mechanisms to reduce inappropriate emergency department utilization by recipients;

(7) financial incentives for the provision of after-hours primary care;

(8) mechanisms that ensure a robust system of care coordination for assessing, planning, coordinating and monitoring recipients with complex, chronic or high-cost health care or social support needs, including attendant care and other services needed to remain in the community;

(9) implementation of a comprehensive, community-based initiative to educate recipients about effective use of the health care delivery system, including the use of community health workers or promotoras;

(10) strategies to prevent or delay institutionalization of recipients through the effective utilization of home- and community-based support services;

(11) a primary care provider for each recipient, who advocates for and provides ongoing support, oversight and guidance to implement an integrated, coherent, cross-disciplinary plan for ongoing health care developed in partnership with the recipient and including all other health care providers furnishing care to the recipient;

(12) implementation of evidence-based medicine and clinical decision support tools to guide decision-making at the point-of-care based upon recipient-specific factors;

(13) use of comparative effectiveness to make a cost-benefit analysis of health care practices;

(14) use of health information technology, including remote supervision, recipient monitoring and recipient registries, to monitor and track the health status of recipients;

(15) development and use of safe and secure health information technology to promote convenient recipient access to personal health information, health services and web sites with tools for patient self-management;

(16) implementation of training programs for personnel involved in the coordination of care for recipients;

(17) implementation of equitable financial incentive and compensation systems for primary care providers and other staff engaged in care management and the medical home model; and

(18) any other components that the secretary determines will improve a recipient's health outcome and that are cost-effective.

B. For the purposes of this section, "primary care provider" means a medical doctor or physician assistant licensed under the Medical Practice Act to practice medicine in New Mexico, an osteopathic physician licensed pursuant to Chapter 61, Article 10 NMSA 1978, an osteopathic physician's assistant licensed pursuant to the Osteopathic Physicians' Assistants Act, a pharmacist clinician licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act; or a certified nurse practitioner as defined in the Nursing Practice Act who provides first contact and continuous care and who has the staff and resources to manage the comprehensive and coordinated health care of each individual under the primary care provider's care."

House Bill 26, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 44

AN ACT

RELATING TO TAXATION; REMOVING RESTRICTIONS ON THE ELIGIBILITY OF MUNICIPALITIES OR COUNTIES TO IMPOSE A CAPITAL OUTLAY GROSS RECEIPTS TAX.

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

Chapter 44 Section 1 Laws 2010

Section 1. Section 7-19D-12 NMSA 1978 (being Laws 2001, Chapter 172, Section 1, as amended) is amended to read:

"7-19D-12. MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS TAX--
PURPOSES--REFERENDUM.--

A. The majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth of one percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one percent not to exceed an aggregate rate of one-fourth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal capital outlay gross receipts tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, may dedicate the revenue for any municipal infrastructure purpose, including:

(1) the design, construction, acquisition, improvement, renovation, rehabilitation, equipping or furnishing of public buildings or facilities, including parking facilities, the acquisition of land for the public buildings or facilities and the acquisition or improvement of the grounds surrounding public buildings or facilities;

(2) acquisition, construction or improvement of water, wastewater or solid waste systems or facilities and related facilities, including water or sewer lines and storm sewers and other drainage improvements;

(3) acquisition, rehabilitation or improvement of firefighting equipment;

(4) construction, reconstruction or improvement of municipal streets, alleys, roads or bridges, including acquisition of rights of way;

(5) design, construction, acquisition, improvement or equipping of airport facilities, including acquisition of land, easements or rights of way for airport facilities;

(6) acquisition of land for open space, public parks or public recreational facilities and the design, acquisition, construction, improvement or equipping of parks and recreational facilities; and

(7) payment of gross receipts tax revenue bonds issued pursuant to Chapter 3, Article 31 NMSA 1978 for infrastructure purposes.

D. An ordinance imposing the municipal capital outlay gross receipts tax shall not go into effect until after an election is held on the question of imposing the tax for the purpose for which the revenue is dedicated and a majority of the voters in 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 general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the question of imposing the municipal capital outlay 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 capital outlay 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."

Chapter 44 Section 2 Laws 2010

Section 2. Section 7-20E-21 NMSA 1978 (being Laws 2001, Chapter 172, Section 2, as amended) is amended to read:

"7-20E-21. COUNTY CAPITAL OUTLAY GROSS RECEIPTS TAX--PURPOSES--REFERENDUM.--

A. The majority of the members of the governing body of a county may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth of one percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one percent not to exceed an aggregate rate of one-fourth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county capital outlay gross receipts tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, may dedicate the revenue for any county infrastructure purpose, including:

(1) the design, construction, acquisition, improvement, renovation, rehabilitation, equipping or furnishing of public buildings or facilities, including parking facilities, the acquisition of land for the public buildings or facilities and the acquisition or improvement of the grounds surrounding public buildings or facilities;

(2) acquisition, construction or improvement of water, wastewater or solid waste systems or facilities and related facilities, including water or sewer lines and storm sewers and other drainage improvements;

(3) design, construction, acquisition, improvement or equipping of a county jail, juvenile detention facility or other county correctional facility or multipurpose regional adult jail or juvenile detention facility;

(4) construction, reconstruction or improvement of roads, streets or bridges, including acquisition of rights of way;

(5) design, construction, acquisition, improvement or equipping of airport facilities, including acquisition of land, easements or rights of way for airport facilities;

(6) acquisition of land for open space, public parks or public recreational facilities and the design, acquisition, construction, improvement or equipping of parks and recreational facilities; and

(7) payment of gross receipts tax revenue bonds issued pursuant to Chapter 4, Article 62 NMSA 1978 for infrastructure purposes.

D. An ordinance imposing the county capital outlay gross receipts tax shall not go into effect until after an election is held on the question of imposing the tax for the purpose for which the revenue is dedicated and a majority of the voters in the county voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election 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 county as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the question of imposing the county capital outlay gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If the question of imposing the county capital outlay 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.

Chapter 44 Section 3 Laws 2010

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

House Bill 30

Approved March 8, 2010

LAWS 2010, CHAPTER 45

AN ACT

RELATING TO GAME AND FISH; ESTABLISHING A MILITARY DISCOUNT FOR A GENERAL HUNTING AND FISHING LICENSE.

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

Chapter 45 Section 1 Laws 2010

Section 1. Section 17-3-2 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 2, as amended) is amended to read:

"17-3-2. CLASSES OF LICENSES.--

A. As used with reference to licenses in Chapter 17 NMSA 1978:

(1) "fishing" entitles the licensee to fish for game fish during the open seasons for each species;

(2) "small game" entitles the licensee to hunt game birds, other than wild turkey, and squirrel during the open seasons for each;

(3) "deer" entitles the licensee to hunt deer during the open season;

(4) "general hunting" entitles the licensee to hunt deer, squirrel and game birds during the open seasons for each;

(5) "general hunting and fishing" entitles the licensee to hunt deer, squirrel and game birds and to fish for game fish during the open seasons for each;

(6) "antelope" entitles the licensee to hunt antelope during the open season;

(7) "elk" entitles the licensee to hunt elk during the open season;

(8) "bighorn sheep" entitles the licensee to hunt bighorn sheep during the open season;

(9) "Barbary sheep" entitles the licensee to hunt Barbary sheep during the open season;

(10) "javelina" entitles the licensee to hunt javelina during the open season;

(11) "bear" entitles the licensee to hunt bear during the open season;

(12) "nongame" entitles the licensee to hunt or take any animal or bird not protected by law;

(13) "temporary fishing" entitles the licensee to fish for game fish during a specific period of time indicated on the license;

(14) "oryx" entitles the licensee to hunt oryx during the open season;

(15) "ibex" entitles the licensee to hunt ibex during the open season;

(16) "cougar" entitles the licensee to hunt cougar during the open season;

(17) "turkey" entitles the licensee to hunt turkey during the open season;

(18) "special season turkey" entitles the licensee to hunt turkey during special seasons designated by the state game commission;

(19) "quality elk" entitles the licensee to hunt elk during a special quality elk season, to be established by the state game commission, when the timing of the season and hunter density is specially regulated and the elk population is managed with an intent to provide the licensee an increased opportunity to take a mature elk;

(20) "quality deer" entitles the licensee to hunt deer during a special quality deer season, to be established by the state game commission, when the timing of the season and hunter density is specially regulated and the deer population is managed with an intent to provide the licensee an increased opportunity to take a mature deer;

(21) "temporary small game" entitles the licensee to hunt game birds, except wild turkey, and squirrel during a specific period of time indicated on the license;

(22) "second rod" entitles the licensee to fish using two fishing rods to fish for game fish during the open seasons for each species; and

(23) "fishing and small game combination" entitles the licensee to hunt squirrel and game birds, other than wild turkey, and to fish for game fish during the open season for each.

B. A hunting license does not entitle the licensee to hunt, kill or take game animals or birds within or upon a park or enclosure licensed or posted as provided by

law or within or upon a privately owned enclosure without consent of the owner or within or upon a game refuge or game management area.

C. A fishing license does not entitle the licensee to fish for or take fish within or upon a park or enclosure licensed or posted as provided by law or within or upon a privately owned enclosure without consent of the owner or in or on closed waters.

D. A junior fishing license may be purchased by a resident who has reached the age of twelve years but has not reached the age of eighteen years. A junior fishing license entitles the licensee to fish for game fish during the open season for each species.

E. A senior fishing license may be purchased by a resident who has reached the age of sixty-five years. A senior fishing license entitles the licensee to fish for game fish during the open season for each species.

F. A nonresident junior fishing license may be purchased by a nonresident who has reached the age of twelve years but has not reached the age of eighteen years. A nonresident junior fishing license entitles the licensee to fish for game fish during the open season for each species.

G. A senior general hunting license may be purchased by a resident who has reached the age of sixty-five years. A senior general hunting license entitles the licensee to hunt for deer, squirrel and game birds during the open seasons for each species.

H. A junior general hunting license may be purchased by a resident who has not reached the age of eighteen years. A junior general hunting license entitles the licensee to hunt for deer, squirrel and game birds during the open seasons for each species.

I. A handicapped fishing license may be purchased by a resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license may be purchased by a resident who has a developmental disability as defined in Subsection H of Section 43-1-3 NMSA 1978 and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license entitles the licensee to fish for game fish during the open season for each species.

J. A handicapped general hunting license may be purchased by a resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped general hunting license entitles the licensee to hunt for deer, squirrel and game birds during the open season for each species.

K. A fishing license may be obtained at no cost by a resident who has reached the age of seventy years.

L. A second rod validation may be purchased by either a resident or nonresident. A second rod validation entitles the licensee to fish using two rods for game fish during the open season for each species.

M. A junior-senior elk license may be purchased by a resident who has not reached the age of eighteen years or by a resident who has reached the age of sixty-five years. A junior-senior elk license entitles the licensee to hunt for elk during the open season for that species.

N. A junior-senior deer license may be purchased by a resident who is younger than eighteen years or older than sixty-five years. A junior-senior deer license entitles the licensee to hunt for deer during the open season for that species.

O. A junior-senior fishing and small game combination license may be purchased by a resident who is younger than eighteen years or older than sixty-five years. A junior-senior fishing and small game combination license entitles the licensee to fish for game fish or hunt for squirrel and game birds, other than wild turkey, during the open seasons for each species.

P. A disabled veteran fishing and small game combination license may be purchased by a resident who has been granted a disability by the federal department of veterans affairs as a result of having served in the armed forces of the United States if the resident submits to the state game commission satisfactory proof that the resident was disabled as a result of having served in the armed forces of the United States. A disabled veteran fishing and small game combination license entitles the licensee to fish for game fish or hunt for squirrel and game birds, other than wild turkey, during the open season for each species.

Q. A military general hunting and fishing license may be purchased by a member of the armed forces of the United States who, for a period of not less than ninety days immediately preceding the date of application for the license, has been domiciled in New Mexico and has not claimed residency elsewhere for any purpose. A military general hunting and fishing license entitles the licensee to hunt deer, squirrel and game birds and to fish for game fish during the open seasons for each species."

Chapter 45 Section 2 Laws 2010

Section 2. Section 17-3-13 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 5, as amended) is amended to read:

"17-3-13. LICENSE FEES.--

A. The director of the department of game and fish shall keep a record of all money received and licenses and permits issued by the department, numbering each class separately. Upon satisfactory proof that a license or permit has been lost before its expiration, the director may issue a duplicate and collect a just and reasonable fee for it as determined by regulation of the state game commission.

B. The director of the department of game and fish shall collect the following fees for each license of the class indicated:

Resident, fishing	\$25.00
Resident, small game	20.00
Resident, deer	36.00
Resident, junior-senior, deer	24.00
Resident, general hunting	40.00
Resident, general hunting and fishing	59.00
Resident, senior, handicapped, military, general hunting and fishing	28.00
Resident, junior, general hunting and fishing	20.00
Resident, fishing and small game combination	33.00
Resident, junior-senior, fishing and small game combination	16.00
Resident, disabled veteran, fishing and small game combination	10.00
Resident, antelope	50.00
Resident, elk cow	50.00
Resident, elk bull or either sex	80.00
Resident, junior-senior, elk	48.00

Resident, bighorn sheep, ram	150.00
Resident, bighorn sheep, ewe	75.00
Resident, Barbary sheep	100.00
Resident, bear	44.00
Resident, turkey	25.00
Resident, cougar	40.00
Resident, oryx	150.00
Resident, ibex	100.00
Resident, javelina	55.00
Resident, fur dealer	15.00
Resident, trapper	20.00
Resident, junior trapper	9.00
Nonresident, fishing	56.00
Nonresident, junior fishing	28.00
Nonresident, small game	90.00
Nonresident, deer	260.00
Nonresident, quality deer	345.00
Nonresident, bear	250.00
Nonresident, cougar	280.00
Nonresident, turkey	100.00
Nonresident, antelope	260.00
Nonresident, elk cow	315.00
Nonresident, elk bull or either sex	525.00

Nonresident, quality elk	750.00
Nonresident, bighorn sheep	3,150.00
Nonresident, Barbary sheep	350.00
Nonresident, oryx	1,600.00
Nonresident, ibex	1,600.00
Nonresident, javelina	155.00
Nonresident, fur dealer	125.00
Nonresident, trapper	345.00
Nonresident, nongame	65.00
Resident, senior, handicapped, fishing	8.00
Resident, junior fishing	5.00
Temporary fishing, one day	12.00
Temporary fishing, five days	24.00
Resident, senior, handicapped, general hunting	24.00
Resident, junior general hunting	15.00
Temporary small game, four days	33.00
Second rod validation	4.00."

House Bill 37

Approved March 8, 2010

LAWS 2010, CHAPTER 46

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 46 Section 1 Laws 2010

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund for public projects as defined in Section 6-21-3 NMSA 1978. Pursuant to Section 6-21-6 NMSA 1978, loans of less than one million dollars (\$1,000,000) do not require specific authorization and need not be identified in this act. Authorization is given to the New Mexico finance authority to make loans to the following qualified entities on terms and conditions established by the authority:

1. the city of Rio Rancho in Sandoval county for equipment, building, infrastructure, land acquisition and special assessment district projects;
2. Hidalgo county for equipment, building and infrastructure projects;
3. the city of Raton in Colfax county for building, equipment and infrastructure projects;
4. the north central solid waste authority in Rio Arriba county for building, equipment, infrastructure, solid waste and land acquisition projects;
5. the department of transportation for building, equipment, infrastructure and land acquisition projects;
6. the southwest solid waste authority in Grant county for debt refinancing, building, equipment and infrastructure projects;
7. the board of regents of New Mexico state university for building, equipment and infrastructure projects;
8. San Miguel county for debt refinancing projects;
9. the town of Estancia in Torrance county for debt refinancing projects;
10. the board of regents of New Mexico state university for the New Mexico department of agriculture for building, equipment and infrastructure projects;

11. the city of Deming in Luna county for building, equipment, infrastructure, road, land acquisition, water, wastewater and solid waste projects;

12. the town of Mesilla in Dona Ana county for building, equipment, infrastructure, water and wastewater projects;

13. Sierra county for building, equipment, infrastructure, land acquisition and solid waste projects;

14. the city of Artesia in Eddy county for building, equipment, infrastructure, special assessment district, public improvement district, refinancing, water rights and land acquisition projects;

15. the city of Socorro in Socorro county for building, equipment, infrastructure, water, wastewater, water rights and land acquisition projects;

16. Albuquerque public schools in Bernalillo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

17. the Carlsbad soil and water conservation district in Eddy county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

18. Catron county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

19. the village of Causey in Roosevelt county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

20. Cibola county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

21. the Claunch-Pinto soil and water conservation district in Torrance county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

22. the town of Clayton in Union county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

23. the Pueblo of Cochiti in Sandoval county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

24. Cuba independent schools in Sandoval county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

25. De Baca county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

26. the village of Des Moines in Union county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

27. Dona Ana county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

28. the village of Dora in Roosevelt county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

29. Farmington municipal schools in San Juan county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

30. Gallup-McKinley public schools in McKinley county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

31. Lordsburg public schools in Hidalgo county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

32. the city of Lovington in Lea county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

33. the village of Melrose in Curry county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

34. the city of Moriarty in Torrance county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

35. the border authority for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

36. the board of regents of the New Mexico institute of mining and technology for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

37. the north central council of governments for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

38. Otero county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

39. Quay county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

40. the city of Ruidoso Downs in Lincoln county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

41. the village of San Jon in Quay county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

42. the community college board of Santa Fe community college in Santa Fe county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

43. Sierra county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

44. the town of Silver City in Grant county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

45. Socorro county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

46. Taos county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

47. the city of Texico in Curry county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

48. Truth or Consequences public schools in Sierra county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

49. the city of Tucumcari in Quay county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

50. Union county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

51. the board of regents of the university of New Mexico for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

52. Valencia county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

53. the town of Vaughn in Guadalupe county for building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste projects;

54. the city of Jal in Lea county for building, infrastructure, equipment, debt refinancing, water, wastewater, road and land projects;

55. the city of Eunice in Lea county for building, infrastructure, equipment, debt refinancing, water, wastewater and land projects;

56. the city of Gallup in McKinley county for building, infrastructure, equipment, debt refinancing, water, wastewater, solid waste, road and land projects;

57. the New Mexico renewable energy transmission authority for building, equipment, debt refinancing and infrastructure projects;

58. the city of Las Cruces in Dona Ana county for building, infrastructure, equipment, debt refinancing, water, wastewater, solid waste, road, land, special assessment district and public improvement district projects;

59. Dona Ana county for special assessment district and public improvement district projects;

60. the city of Ruidoso Downs in Lincoln county for special assessment district and public improvement district projects;

61. Lincoln county for special assessment district and public improvement district projects;

62. Torrance county for special assessment district and public improvement district projects;

63. Chaves county for solid waste projects;

64. the city of Clovis in Curry county for solid waste projects;

65. Eddy county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

66. Roosevelt county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

67. the village of Ruidoso in Lincoln county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road, land, special assessment district and public improvement district projects;

68. the village of Angel Fire in Colfax county for water, wastewater and solid waste projects;

69. the Aztec municipal school district in San Juan county for building, equipment, infrastructure, debt refinancing and land projects;

70. the city of Belen in Valencia county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

71. the Belen consolidated school district in Valencia county for building, equipment, infrastructure, debt refinancing and land projects;

72. the Bloomfield school district in San Juan county for building, equipment, infrastructure, debt refinancing and land projects;

73. the Central consolidated school district in San Juan county for building, equipment, infrastructure, debt refinancing and land projects;

74. the Cobre consolidated school district in Grant county for building, equipment, infrastructure, debt refinancing and land projects;

75. the Cuba independent school district in Sandoval county for building, equipment, infrastructure, debt refinancing and land projects;

76. the Deming public school district in Luna county for building, equipment, infrastructure, debt refinancing and land projects;

77. the Fort Sumner municipal school district in De Baca county for building, equipment, infrastructure, debt refinancing and land projects;

78. Bernalillo county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

79. the town of Carrizozo in Lincoln county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

80. Colfax county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

81. Curry county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

82. the city of Deming in Luna county for debt refinancing projects;

83. eastern New Mexico university in Roosevelt county for building, equipment, infrastructure, land and debt refinancing projects;

84. the city of Espanola in Rio Arriba county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

85. the city of Farmington in San Juan county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

86. Grant county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

87. the city of Grants in Cibola county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

88. the village of Hatch in Dona Ana county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

89. the city of Las Vegas in San Miguel county for water, wastewater and solid waste projects;

90. Lea county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

91. the city of Lordsburg in Hidalgo county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

92. the village of Los Lunas in Valencia county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

93. Luna county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

94. northern New Mexico college in Rio Arriba county for building, equipment, infrastructure, debt refinancing and land projects;

95. Rio Arriba county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

96. the Rio Grande natural gas association in Dona Ana county for building, equipment, infrastructure and debt refinancing projects;

97. San Juan county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

98. the Socorro consolidated school district in Socorro county for building, equipment, infrastructure, debt refinancing and land projects;

99. the city of Socorro in Socorro county for solid waste and infrastructure projects;

100. the city of Sunland Park in Dona Ana county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

101. the town of Taos in Taos county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

102. Torrance county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

103. the city of Truth or Consequences in Sierra county for water and wastewater projects;

104. the Pueblo of Laguna in Cibola county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

105. the Lovington municipal school district in Lea county for building, equipment, infrastructure, debt refinancing and land projects;

106. the Mescalero Apache Tribe in Otero county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

107. the Pueblo of Nambe in Santa Fe county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

108. the Ruidoso municipal school district in Lincoln county for building, equipment, infrastructure, debt refinancing and land projects;

109. the Pueblo of Sandia in Sandoval county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

110. the Pueblo of Santa Ana in Sandoval county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

111. the Tucumcari municipal school district in Quay county for building, equipment, infrastructure, debt refinancing and land projects;

112. the Pueblo of Zuni in McKinley county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects;

113. the town of Hurley in Grant county for building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land projects; and

114. the New Mexico national guard in Santa Fe county for building, equipment, infrastructure, debt refinancing and land acquisition projects.

Chapter 46 Section 2 Laws 2010

Section 2. AUTHORIZATION OF CHARTER SCHOOL PROJECTS.--Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund to the following qualified charter school entity for the following public project:

1. the Alice King community school.

Chapter 46 Section 3 Laws 2010

Section 3. VOIDING OF AUTHORIZATION.--If a qualified entity listed in Sections 1 and 2 of this act has not certified to the New Mexico finance authority by the end of fiscal year 2013 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 Sections 1 and 2 of this act to make a loan from the public project revolving fund to that qualified entity for that public project is void.

Chapter 46 Section 4 Laws 2010

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

House Bill 38, aa, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 47

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 47 Section 1 Laws 2010

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Section 72-4A-9 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans or grants from the water project fund to the following qualified 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 Grant county for a flood prevention project;
2. to the village of Ruidoso in Lincoln county for a flood prevention project;
3. to the greater Chimayo mutual domestic water consumers association in Rio Arriba county for a water conservation, treatment, recycling or reuse project;
4. to the Dona Ana mutual domestic water consumers association in Dona Ana county for a water conservation, treatment, recycling or reuse project;
5. to the town of Taos in Taos county for a water conservation, treatment, recycling or reuse project;
6. to the Lea soil and water conservation district in Lea county for a water conservation, treatment, recycling or reuse project;
7. to the mid-region council of governments in Bernalillo, Sandoval, Torrance and Valencia counties for a water conservation, treatment, recycling or reuse project;
8. to the city of Las Vegas in San Miguel county for a water conservation, treatment, recycling or reuse project;
9. to the city of Deming in Luna county for a water conservation, treatment, recycling or reuse project;
10. to the city of Hobbs in Lea county for a water conservation, treatment, recycling or reuse project;
11. to the Glorieta estates mutual domestic water consumers association in Santa Fe county for a water conservation, treatment, recycling or reuse project;
12. to the town of Bernalillo in Sandoval county for a water conservation, treatment, recycling or reuse project;
13. to Dona Ana county for a water conservation, treatment, recycling or reuse project;
14. to the Agua Sana water users association in Rio Arriba county for a water conservation, treatment, recycling or reuse project;
15. to the Albuquerque-Bernalillo county water utility authority in Bernalillo county for a water conservation, treatment, recycling or reuse project;
16. to the city of Santa Fe in Santa Fe county for a water storage, conveyance and delivery project;

17. to the Alcalde mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;

18. to the Pueblo of Isleta in Bernalillo county for a water storage, conveyance and delivery project;

19. to the city of Las Cruces in Dona Ana county for a water storage, conveyance and delivery project;

20. to the city of Aztec in San Juan county for a water storage, conveyance and delivery project;

21. to the city of Santa Fe in Santa Fe county for a water storage, conveyance and delivery project;

22. to the city of Clovis in Curry county for a water storage, conveyance and delivery project;

23. to the village of Ruidoso in Lincoln county for a water storage, conveyance and delivery project;

24. to the Alto Lakes water and sanitation district in Lincoln county for a water storage, conveyance and delivery project;

25. to the Rio Embudo mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;

26. to the Chupadero water and sewage corporation in Santa Fe county for a water storage, conveyance and delivery project;

27. to the town of Mesilla in Dona Ana county for a water storage, conveyance and delivery project;

28. to the Vista Redonda mutual domestic water consumers association in Santa Fe county for a water storage, conveyance and delivery project;

29. to the Jemez Springs domestic water association in Sandoval county for a water storage, conveyance and delivery project;

30. to McKinley county for a water storage, conveyance and delivery project;

31. to the Albuquerque-Bernalillo county water utility authority in Bernalillo county for a water storage, conveyance and delivery project;

32. to the village of Questa in Taos county for a water storage, conveyance and delivery project;
33. to the city of Carlsbad in Eddy county for a water storage, conveyance and delivery project;
34. to the village of Los Lunas in Valencia county for a water storage, conveyance and delivery project;
35. to the city of Belen in Valencia county for a water storage, conveyance and delivery project;
36. to the village of San Ysidro in Sandoval county for a water storage, conveyance and delivery project;
37. to the city of Bloomfield in San Juan county for a water storage, conveyance and delivery project;
38. to the city of Las Vegas in San Miguel county for a water storage, conveyance and delivery project;
39. to the city of Deming in Luna county for a water storage, conveyance and delivery project;
40. to the Hollywood Ranch domestic water utility authority in Guadalupe county for a water storage, conveyance and delivery project;
41. to la asociacion de agua de Los Brazos in Rio Arriba county for a water storage, conveyance and delivery project;
42. to the Mescalero Apache Tribe in Otero county for a water storage, conveyance and delivery project;
43. to the Cuatro Villas mutual domestic water users association in Santa Fe county for a water storage, conveyance and delivery project;
44. to the Mora mutual domestic water consumers and mutual sewer water association in Mora county for a water storage, conveyance and delivery project;
45. to El Valle water alliance in San Miguel county for a water storage, conveyance and delivery project;
46. to La Plata conservancy district in San Juan county for a water storage, conveyance and delivery project;

47. to Ohkay Owingeh in Rio Arriba county for a water storage, conveyance and delivery project;
48. to the Colonias mutual domestic water association in Guadalupe county for a water storage, conveyance and delivery project;
49. to the city of Grants in Cibola county for a water storage, conveyance and delivery project;
50. to the town of Taos in Taos county for a water storage, conveyance and delivery project;
51. to El Valle de los Ranchos water and sanitation district in Taos county for a water storage, conveyance and delivery project;
52. to the Thoreau water and sanitation district in McKinley county for a water storage, conveyance and delivery project;
53. to the town of Estancia in Torrance county for a water storage, conveyance and delivery project;
54. to the city of Espanola in Rio Arriba county for a water storage, conveyance and delivery project;
55. to the Pueblo of Santa Clara in Rio Arriba county for a water storage, conveyance and delivery project;
56. to Otero county for a watershed restoration and management project;
57. to the Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project;
58. to the Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project;
59. to the Elephante Butte irrigation district in Dona Ana county for a watershed restoration and management project;
60. to the Canadian river soil and water conservation district in Harding county for a watershed restoration and management project; and
61. to the Upper Hondo soil and water conservation district in Lincoln county for a watershed restoration and management project.

Chapter 47 Section 2 Laws 2010

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

House Bill 56, aa, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 48

AN ACT

RELATING TO CHARTER SCHOOLS; REQUIRING OVERSIGHT DURING THE CHARTER SCHOOL'S PLANNING YEAR.

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

Chapter 48 Section 1 Laws 2010

Section 1. Section 22-8B-12 NMSA 1978 (being Laws 1999, Chapter 281, Section 12, as amended) is amended to read:

"22-8B-12. CHARTER SCHOOLS--TERM--RENEWAL OF CHARTER--
GROUNDS FOR NONRENEWAL OR REVOCATION.--

A. A charter school may be approved for an initial term of six years; provided that the first year shall be used exclusively for planning and not for completing the application. A charter may be renewed for successive periods of five years each. Approvals of less than five years may be agreed to between the charter school and the chartering authority.

B. During the planning year, the charter school shall file a minimum of three status reports with the chartering authority and the department for the purpose of demonstrating that the charter school's implementation progress is consistent with the conditions, standards and procedures of its approved charter. The report content, format and schedule for submission shall be agreed to by the chartering authority and the charter school prior to signing the charter contract.

C. Prior to the end of the planning year, the charter school shall demonstrate that its facilities meet the requirements of Section 22-8B-4.2 NMSA 1978.

D. Prior to the end of the planning year, a state-chartered charter school shall demonstrate that it has qualified as a board of finance and has satisfied any conditions imposed by the commission before commencing full operation for the remainder of its charter term. The commission shall either issue or refuse to issue the

authorization to commence full operation within twenty-one days of the request. If the commission refuses to issue the authorization, it shall provide its reasons in writing to the charter school.

E. No later than two hundred seventy days prior to the date in which the charter expires, the governing body may submit a renewal application to the chartering authority. A charter school may apply to a different chartering authority for renewal. The chartering authority shall rule in a public hearing on the renewal application no later than one hundred eighty days prior to the expiration of the charter.

F. A charter school renewal application submitted to the chartering authority shall contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, student performance standards, state minimum educational standards and other terms of the initial approved charter application, including the accountability requirements set forth in the Assessment and Accountability Act;

(2) a financial statement that discloses the costs of administration, instruction and other spending categories for the charter school that is understandable to the general public, that allows comparison of costs to other schools or comparable organizations and that is in a format required by the department;

(3) contents of the charter application set forth in Section 22-8B-8 NMSA 1978;

(4) a petition in support of the charter school renewing its charter status signed by not less than sixty-five percent of the employees in the charter school;

(5) a petition in support of the charter school renewing its charter status signed by at least seventy-five percent of the households whose children are enrolled in the charter school; and

(6) a description of the charter school facilities and assurances that the facilities are in compliance with the requirements of Section 22-8B-4.2 NMSA 1978.

G. A charter may be suspended, revoked or not renewed by the chartering authority if the chartering authority determines that the charter school did any of the following:

(1) committed a material violation of any of the conditions, standards or procedures set forth in the charter;

(2) failed to meet or make substantial progress toward achievement of the department's minimum educational standards or student performance standards identified in the charter application;

(3) failed to meet generally accepted standards of fiscal management; or

(4) violated any provision of law from which the charter school was not specifically exempted.

H. If a chartering authority suspends, revokes or does not renew a charter, the chartering authority shall state in writing its reasons for the suspension, revocation or nonrenewal.

I. A decision to suspend, revoke or not to renew a charter may be appealed by the governing body pursuant to Section 22-8B-7 NMSA 1978."

House Bill 74, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 49

AN ACT

RELATING TO PUBLIC MONEY; PROVIDING FOR AN ADDITIONAL DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE TOBACCO SETTLEMENT PROGRAM FUND IN FISCAL YEAR 2011; MAKING AN APPROPRIATION.

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

Chapter 49 Section 1 Laws 2010

Section 1. Section 6-4-9 NMSA 1978 (being Laws 1999, Chapter 207, Section 1, as amended) is amended to read:

"6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--DISTRIBUTION.--

A. The "tobacco settlement permanent fund" is created in the state treasury. The fund shall consist of money distributed to the state pursuant to the master settlement agreement entered into between tobacco product manufacturers and various states, including New Mexico, and executed November 23, 1998 or any money released to the state from a qualified escrow fund or otherwise paid to the state as authorized by the model statute, Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the master settlement agreement. Money in the fund shall be invested by the state investment officer as land grant permanent funds are invested pursuant to Chapter 6,

Article 8 NMSA 1978. Income from investment of the fund shall be credited to the fund. Money in the fund shall not be expended for any purpose, except as provided in this section.

B. In fiscal years 2003 through 2006, a distribution shall be made from the tobacco settlement permanent fund to the general fund in an amount equal to one hundred percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year.

C. In fiscal year 2007 and in each fiscal year thereafter, an annual distribution shall be made from the tobacco settlement permanent fund to the tobacco settlement program fund of an amount equal to fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year until that amount is less than an amount equal to four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. In the event that the actual amount distributed to the tobacco settlement program fund in a fiscal year is insufficient to meet appropriations from that fund for that fiscal year, the secretary of finance and administration shall proportionately reduce each appropriation accordingly.

D. In addition to the distribution made pursuant to Subsection C of this section, in fiscal year 2009, fiscal year 2010 and fiscal year 2011, the remaining fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund.

E. The tobacco settlement permanent fund shall be considered a reserve fund of the state and, as a reserve fund, may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, in order to avoid an unconstitutional deficit, the legislature may authorize a transfer from the tobacco settlement permanent fund to the general fund but only in an amount necessary to meet general fund appropriations."

House Bill 79

Approved March 8, 2010

LAWS 2010, CHAPTER 50

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING A NEW SECTION OF THE ENVIRONMENTAL IMPROVEMENT ACT TO CREATE THE NUCLEAR WORKERS ASSISTANCE FUND; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 50 Section 1 Laws 2010

Section 1. A new section of the Environmental Improvement Act is enacted to read:

"NUCLEAR WORKERS ASSISTANCE FUND CREATED.--The "nuclear workers assistance fund" is created in the state treasury. The fund shall consist of money earned from investment of the fund and otherwise accruing to the fund and up to one-half of one percent of any award for an initial claim, including a claim for medical benefits, filed by the department on behalf of the claimants with the federal office of workers' compensation program, under the federal Energy Employees Occupational Illness Compensation Program Act of 2000, 42 USC 7384 et seq., or up to five percent of any award after the department files objections to a recommended decision denying an award, which shall be transmitted to the state treasurer for credit to the nuclear workers assistance fund. Balances remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund. The department shall administer the fund, and money in the fund is appropriated to the department for the purpose of the administration of a program to assist nuclear workers seeking claims under the federal Energy Employees Occupational Illness Compensation Program Act of 2000, 42 USC 7384 et seq. Money from the fund may be drawn on warrants of the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or the secretary of environment's designee."

Chapter 50 Section 2 Laws 2010

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

House Bill 101, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 51

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING;
DECLARING AN EMERGENCY.

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

Chapter 51 Section 1 Laws 2010

Section 1. APPROPRIATION.--Two million seven hundred fourteen thousand six hundred dollars (\$2,714,600) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2010 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 at the end of a fiscal year shall not revert to the public project revolving fund.

Chapter 51 Section 2 Laws 2010

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

House Bill 108, aa, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 52

AN ACT

RELATING TO THE STATE FISC; POSTPONING INCREASES IN A CERTAIN
DISTRIBUTION FROM THE FIRE PROTECTION FUND.

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

Chapter 52 Section 1 Laws 2010

Section 1. Section 59A-53-5.2 NMSA 1978 (being Laws 2007, Chapter 152, Section 1, as amended) is amended to read:

"59A-53-5.2. APPROPRIATIONS AND TRANSFERS FROM THE FIRE
PROTECTION FUND.--

A. For each fiscal year, the amount to be distributed by the marshal pursuant to Sections 59A-53-4, 59A-53-5 and 59A-53-5.1 NMSA 1978 is appropriated from the fire protection fund to the commission for the purpose of making the distributions.

B. For the purposes of Subsections C and D of this section, the "remaining balance in the fire protection fund" shall be calculated on June 30 of each year and shall equal the balance of the fund on that date less the sum of:

(1) the total amount to be distributed during the succeeding fiscal year pursuant to Sections 59A-53-4, 59A-53-5 and 59A-53-5.1 NMSA 1978; and

(2) the total amount of other appropriations from the fire protection fund for the succeeding fiscal year.

C. On the following dates, the following percentages of the remaining balance in the fire protection fund shall be transferred from the fire protection fund to the fire protection grant fund:

(1) on June 30, 2007, six and seven-tenths percent;

(2) on June 30, 2008, thirteen and four-tenths percent;

(3) on June 30, 2009, thirteen and four-tenths percent;

(4) on June 30, 2010, thirteen and four-tenths percent;

(5) on June 30, 2011, thirteen and four-tenths percent;

(6) on June 30, 2012, twenty and one-tenth percent;

(7) on June 30, 2013, twenty-six and eight-tenths percent;

(8) on June 30, 2014, thirty-three and five-tenths percent;

(9) on June 30, 2015, forty and two-tenths percent;

(10) on June 30, 2016, forty-six and nine-tenths percent;

(11) on June 30, 2017, fifty-three and six-tenths percent;

(12) on June 30, 2018, sixty and three-tenths percent;

(13) on June 30, 2019, sixty-seven percent;

(14) on June 30, 2020, seventy-three and seven-tenths percent;

(15) on June 30, 2021, eighty and four-tenths percent;

(16) on June 30, 2022, eighty-seven and one-tenth percent;

(17) on June 30, 2023, ninety-three and eight-tenths percent; and

(18) on June 30, 2024 and on each subsequent June 30, one hundred percent.

D. On June 30 of each year, the remaining balance in the fire protection fund, less the amount to be transferred on that date pursuant to Subsection C of this section, shall be transferred to the general fund; provided that no transfer shall be made pursuant to this subsection after June 30, 2023."

House Bill 114

Approved March 8, 2010

LAWS 2010, CHAPTER 53

AN ACT

RELATING TO TAXATION; EXPANDING THE ALLOWANCE OF WITHHOLDING AMOUNTS FOR ESTIMATED TAX PURPOSES; AMENDING THE WITHHOLDING TAX ACT; PROVIDING A CREDIT AND REQUIRING ELECTRONIC FILING OF WITHHOLDING INFORMATION RETURNS BY CERTAIN EMPLOYERS AND PAYORS FOR VARIOUS AGENCIES; AMENDING THE OIL AND GAS PROCEEDS WITHHOLDING TAX ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 53 Section 1 Laws 2010

Section 1. Section 7-2-12.2 NMSA 1978 (being Laws 1996, Chapter 17, Section 1, as amended) is amended to read:

"7-2-12.2. ESTIMATED TAX DUE--PAYMENT OF ESTIMATED TAX--PENALTY.--

A. Except as otherwise provided in this section, an individual who is required to file an income tax return under the Income Tax Act shall pay the required annual payment in installments through either withholding or estimated tax payments.

B. For the purposes of this section:

(1) "required annual payment" means the lesser of:

(a) ninety percent of the tax shown on the return of the taxable year or, if no return is filed, ninety percent of the tax for the taxable year; or

(b) one hundred percent of the tax shown on the return for the preceding taxable year if the preceding taxable year was a taxable year of twelve months and the taxpayer filed a New Mexico tax return for that preceding taxable year; and

(2) "tax" means the tax imposed under Section 7-2-3 NMSA 1978 less any amount allowed for applicable credits and rebates provided by the Income Tax Act.

C. There shall be four required installments for each taxable year. If a taxpayer is not liable for estimated tax payments on March 31, but becomes liable for estimated tax at some point after March 31, the taxpayer must make estimated tax payments as follows:

(1) if the taxpayer becomes required to pay estimated tax after March 31 and before June 1, fifty percent of the required annual payment must be paid on or before June 15, twenty-five percent on September 15 and twenty-five percent on or before January 15 of the following taxable year;

(2) if the taxpayer becomes required to pay estimated tax after May 31, but before September 1, the taxpayer must pay seventy-five percent of the required annual payment on or before September 15 and twenty-five percent on or before January 15 of the following taxable year; and

(3) if the taxpayer becomes required to pay estimated tax after August 31, the taxpayer must pay one hundred percent of the required annual payment on or before January 15 of the following taxable year.

D. Except as otherwise provided in this section, for taxpayers reporting on a calendar year basis, estimated payments of the required annual payment are due on or before April 15, June 15 and September 15 of the taxable year and January 15 of the following taxable year. For taxpayers reporting on a fiscal year other than a calendar year, the due dates for the installments are the fifteenth day of the fourth, sixth and ninth months of the fiscal year and the fifteenth day of the first month following the fiscal year.

E. A rancher or farmer who expects to receive at least two-thirds of the rancher's or farmer's gross income for the taxable year from ranching or farming, or who has received at least two-thirds of the rancher's or farmer's gross income for the previous taxable year from ranching or farming, may:

(1) pay the required annual payment for the taxable year in one installment on or before January 15 of the following taxable year; or

(2) on or before March 1 of the following taxable year, file a return for the taxable year and pay in full the amount computed on the return as payable.

A penalty under Subsection G of this section shall not be imposed unless the rancher or farmer underpays the tax by more than one-third. If a joint return is filed, a rancher or farmer must consider the rancher's or farmer's spouse's gross income in determining whether at least two-thirds of gross income is from ranching or farming.

F. For the purposes of this section, the amount of tax deducted and withheld with respect to a taxpayer under the Withholding Tax Act or the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act shall be deemed a payment of estimated tax. An equal part of the amount of withheld tax shall be deemed paid on each due date for the applicable taxable year unless the taxpayer establishes the dates on which all amounts were actually withheld. In that case, the amounts withheld shall be deemed payments of estimated tax on the dates on which the amounts were actually withheld. The taxpayer may apply the provisions of this subsection separately to wage withholding and any other amounts withheld under the Withholding Tax Act or the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act. Amounts of tax paid by taxpayers pursuant to Section 7-3A-3 NMSA 1978 shall not be deemed a payment of estimated tax.

G. Except as otherwise provided in this section, in the case of an underpayment of the required annual payment by a taxpayer, there shall be added to the tax a penalty determined by applying the rate specified in Subsection B of Section 7-1-67 NMSA 1978 to the amount of the underpayment for the period of the underpayment, provided:

(1) the amount of the underpayment shall be the excess of the amount of the required annual payment over the amount, if any, paid on or before the due date for the installment;

(2) the period of the underpayment runs from the due date for the installment to whichever of the following dates is earlier:

(a) the fifteenth day of the fourth month following the close of the taxable year; or

(b) with respect to any portion of the underpayment, the date on which the portion was paid; and

(3) a payment of estimated tax shall be credited against unpaid or underpaid installments in the order in which the installments are required to be paid.

H. No penalty shall be imposed under Subsection G of this section for any taxable year if:

(1) the difference between the following is less than five hundred dollars (\$500):

(a) the tax shown on the return for the taxable year or, when no return is filed, the tax for the taxable year; and

(b) any amount withheld under the provisions of the Withholding Tax Act or the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act for that taxpayer for that taxable year;

(2) the taxpayer's preceding taxable year was a taxable year of twelve months, the taxpayer did not have a tax liability for the preceding taxable year and the taxpayer was a resident of New Mexico for the entire taxable year;

(3) through either withholding or estimated tax payments, the taxpayer paid the required annual payment as defined in Subsection B of this section; or

(4) the secretary determines that the underpayment was not due to fraud, negligence or disregard of rules and regulations.

I. If on or before January 31 of the following taxable year the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then a penalty under Subsection G of this section shall not be imposed on an underpayment of the fourth required installment for the taxable year.

J. This section applies to taxable years of less than twelve months and to taxpayers reporting on a fiscal year other than a calendar year in the manner determined by regulation or instruction of the secretary.

K. Except as otherwise provided in Subsection L of this section, this section applies to any estate or trust.

L. This section does not apply to any trust that is subject to the tax imposed by Section 511 of the Internal Revenue Code or that is a private foundation. For a taxable year that ends before the date two years after the date of the decedent's death, this section does not apply to:

(1) the estate of the decedent; or

(2) any trust all of which was treated under Subpart E of Part I of Subchapter J of Chapter 1 of the Internal Revenue Code as owned by the decedent and to which the residue of the decedent's estate will pass under the decedent's will or, if no

will is admitted to probate, that is the trust primarily responsible for paying debts, taxes and expenses of administration.

M. The provisions of this section do not apply to first-year residents."

Chapter 53 Section 2 Laws 2010

Section 2. Section 7-2A-9.1 NMSA 1978 (being Laws 1986, Chapter 5, Section 1, as amended) is amended to read:

"7-2A-9.1. ESTIMATED TAX DUE--PAYMENT OF ESTIMATED TAX--PENALTY--EXEMPTION.--

A. Every taxpayer shall pay estimated corporate income tax to the state of New Mexico during its taxable year if its tax after applicable credits is five thousand dollars (\$5,000) or more in the current taxable year. A taxpayer to which this section applies shall calculate estimated tax by one of the following methods:

(1) estimating the amount of tax due, net of any credits, for the current taxable year, provided that the estimated amount is at least eighty percent of the amount determined to be due for the taxable year;

(2) using as the estimate an amount equal to one hundred percent of the tax due for the previous taxable year, if the previous taxable year was a full twelve-month year;

(3) using as the estimate an amount equal to one hundred ten percent of the tax due for the taxable year immediately preceding the previous taxable year, if the taxable year immediately preceding the previous taxable year was a full twelve-month year and the return for the previous taxable year has not been filed and the extended due date for filing that return has not occurred at the time the first installment is due for the taxable year; or

(4) estimating the amount of tax due, net of any credits, for each fiscal quarter of the current taxable year, provided that the estimated amount is at least eighty percent of the amount determined to be due for that quarter.

B. If Subsection A of this section applies, the amount of estimated tax shall be paid in installments as provided in this subsection. Twenty-five percent of the estimated tax calculated under Paragraph (1), (2) or (3) of Subsection A of this section or one hundred percent of the estimated tax calculated under Paragraph (4) of Subsection A of this section is due on or before the following dates: the fifteenth day of the fourth month of the taxable year, the fifteenth day of the sixth month of the taxable year, the fifteenth day of the ninth month of the taxable year and the fifteenth day of the twelfth month of the taxable year. Application of this subsection to a taxable year that is a fractional part of a year shall be determined by regulation of the secretary.

C. Every taxpayer to which Subsection A of this section applies that fails to pay the estimated tax when due or that makes estimated tax payments during the taxable year that are less than the lesser of eighty percent of the income tax imposed on the taxpayer under the Corporate Income and Franchise Tax Act or the amount required by Paragraph (2), (3) or (4) of Subsection A of this section shall be subject to the interest and penalty provisions of Sections 7-1-67 and 7-1-69 NMSA 1978 on the underpayment.

D. For purposes of this section, the amount of underpayment shall be the excess of the amount of the installment that would be required to be paid if the estimated tax were equal to eighty percent of the tax shown on the return for the taxable year or the amount required by Paragraph (2), (3) or (4) of Subsection A of this section or, if no return was filed, eighty percent of the tax for the taxable year for which the estimated tax is due less the amount, if any, of the installment paid on or before the last date prescribed for payment.

E. For purposes of this section, the period of underpayment shall run from the date the installment was required to be paid to whichever of the following dates is earlier:

(1) the fifteenth day of the third month following the end of the taxable year; or

(2) with respect to any portion of the underpayment, the date on which such portion is paid. For the purposes of this paragraph, a payment of estimated tax on any installment date shall be applied as a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under Subsection D of this section due on such installment date.

F. For the purposes of this section, the amount of tax deducted and withheld with respect to a taxpayer under the Withholding Tax Act or the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act shall be deemed a payment of estimated tax. An equal amount of the amount of withheld tax shall be deemed paid on each due date for the applicable taxable year unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts withheld shall be deemed payments of estimated tax on the dates on which the amounts were actually withheld. The taxpayer may apply the provisions of this subsection separately to amounts withheld under the Withholding Tax Act or the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act. Amounts of tax paid by taxpayers pursuant to Section 7-3A-3 NMSA 1978 shall not be deemed a payment of estimated tax."

Chapter 53 Section 3 Laws 2010

Section 3. Section 7-3-2 NMSA 1978 (being Laws 1990, Chapter 64, Section 1, as amended) is amended to read:

"7-3-2. DEFINITIONS.--As used in the Withholding Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "employee" means either an individual domiciled within the state who performs services either within or without the state for an employer or, to the extent permitted by law, an individual domiciled outside of the state who performs services within the state for an employer;

C. "employer" means a person or an officer, agent or employee of that person having control of the payment of wages, doing business in or deriving income from sources within the state for whom an individual performs or performed any service as the employee of that person, except that if the person for whom the individual performs or performed the services does not have control over the payment of the wages for such services, "employer" means the person having control of the payment of wages;

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

E. "payee" means an individual to whom a payor is making a pension or annuity payment;

F. "payor" means a person making payment of a pension or annuity to an individual domiciled in New Mexico;

G. "payroll period" means a period for which a payment of wages is made to an employee by the employee's employer;

H. "person" means an individual, a club, a company, a cooperative association, a corporation, an estate, a firm, a joint venture, a partnership, a receiver, a syndicate, a trust or other association, a limited liability company, a limited liability partnership or a gas, water or electric utility owned or operated by a county or municipality and, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, a department or an instrumentality thereof;

I. "wagerer" means any person who receives winnings that are subject to withholding;

J. "wages" means remuneration in cash or other form for services performed by an employee for an employer;

K. "winnings that are subject to withholding" means "winnings which are subject to withholding" as that term is defined in Section 3402 of the Internal Revenue Code;

L. "withholdee" means:

(1) an individual domiciled in New Mexico receiving a pension or annuity from which an amount of tax is deducted and withheld pursuant to the Withholding Tax Act;

(2) an employee; and

(3) a wagerer; and

M. "withholder" means a payor, an employer or any person required to deduct and withhold from winnings that are subject to withholding."

Chapter 53 Section 4 Laws 2010

Section 4. Section 7-3-5 NMSA 1978 (being Laws 1961, Chapter 243, Section 5, as amended) is amended to read:

"7-3-5. WITHHOLDER LIABLE FOR AMOUNTS DEDUCTED AND WITHHELD--EXCEPTIONS.--Every withholder shall be liable for amounts required to be deducted and withheld by the Withholding Tax Act regardless of whether the amounts were in fact deducted and withheld, except that:

A. if the withholder fails to deduct and withhold the required amounts and if the tax against which the required amounts would have been credited is paid, the withholder shall not be liable for those amounts not deducted and withheld; or

B. if the withholder's failure to deduct and withhold the required amounts was due to reasonable cause, the withholder shall not be liable for amounts not deducted and withheld."

Chapter 53 Section 5 Laws 2010

Section 5. Section 7-3-6 NMSA 1978 (being Laws 1969, Chapter 25, Section 1, as amended) is amended to read:

"7-3-6. DATE PAYMENT DUE.--Taxes withheld under the provisions of the Withholding Tax Act must be paid on or before the twenty-fifth day of the month following the month when the taxes were required to be withheld."

Chapter 53 Section 6 Laws 2010

Section 6. 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. Except for employers required to file quarterly withholding information returns pursuant to the Withholding Tax Act or required to file a wage and contribution report to the workforce solutions department pursuant to Section 51-1-12 NMSA 1978, every employer shall file an annual statement of withholding for each employee. This statement shall be in a form prescribed by the department and shall be filed with the department on or before the last day of February 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. Except for payors who file the quarterly withholding information returns pursuant to the Withholding Tax Act, every payor shall file 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 payor. This statement shall be in a form prescribed by the department and shall be filed with the department on or before the last day of February 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 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 in a form prescribed by the department and shall be filed with the department on or before the last day of February 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 53 Section 7 Laws 2010

Section 7. A new section of the Withholding Tax Act is enacted to read:

"WITHHOLDING INFORMATION RETURN REQUIRED--PENALTY.--

A. An employer that has more than fifty employees and is not required to file an unemployment insurance tax form with the workforce solutions department or a payor shall file quarterly a withholding information return with the department on or before the last day of the month following the close of the calendar quarter.

B. The quarterly withholding information return required by this section shall contain all information required by the department, including:

- (1) each employee's or payee's social security number;
- (2) each employee's or payee's name;
- (3) each employee's or payee's gross wages, pensions or annuity payments;
- (4) each employee's or payee's state income tax withheld; and
- (5) the workers' compensation fees due on behalf of each employee or payee.

C. Each quarterly withholding information return shall be filed with the department using a department-approved electronic medium.

D. Any employer or payor required to file the quarterly withholding information return who fails to do so by the due date or to file the return in accordance with Subsection C of this section is subject to a penalty in the amount of fifty dollars (\$50.00)."

Chapter 53 Section 8 Laws 2010

Section 8. Section 7-3A-1 NMSA 1978 (being Laws 2003, Chapter 86, Section 4) is amended to read:

"7-3A-1. SHORT TITLE.--Chapter 7, Article 3A NMSA 1978 may be referred to as the "Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act"."

Chapter 53 Section 9 Laws 2010

Section 9. Section 7-3A-2 NMSA 1978 (being Laws 2003, Chapter 86, Section 5) is amended to read:

"7-3A-2. DEFINITIONS.--As used in the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

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

C. "net income" means, for any pass-through entity, the income reported to an owner by the pass-through entity for federal income tax purposes, including ordinary business income or loss, net rental income or loss, guaranteed payments to a partner of a partnership, dividends, royalties and capital gain or loss, less associated deductions, plus interest earned on a state or local bond, less interest earned on a bond issued by the state of New Mexico or its political subdivisions, less income from obligations of the United States less expenses incurred to earn that income; in the case of a subchapter S corporation, "net income" also includes income taxable to the corporation for federal income tax purposes;

D. "oil and gas" means crude oil, natural gas, liquid hydrocarbons or any combination thereof, or carbon dioxide;

E. "oil and gas proceeds" means any amount derived from oil and gas production from any well located in New Mexico and payable as royalty interest, overriding royalty interest, production payment interest, working interest or any other obligation expressed as a right to a specified interest in the cash proceeds received from the sale of oil and gas production or in the cash value of that production, subject to all taxes withheld therefrom pursuant to law; "oil and gas proceeds" excludes "net profits interest" and other types of interest the extent of which cannot be determined with reference to a specified share of the oil and gas production and excludes any amounts deducted by the remitter from payments to interest owners or paid by interest owners to the remitter that are for expenses related to the production from the well or cessation of production from the well for which the interest owner is liable;

F. "owner" means a partner in a partnership not taxed as a corporation for federal income tax purposes for the taxable year, a shareholder of an S corporation or of a corporation other than an S corporation that is not taxed as a corporation for federal income tax purposes for the taxable year, a member of a limited liability company or any similar person holding an ownership interest in any pass-through entity;

G. "partnership" means a combination of persons, including a partnership, joint venture, common trust fund, association, pool or working agreement, or any other combination of persons that is treated as a partnership for federal income tax purposes;

H. "pass-through entity" means any business association other than:

(1) a sole proprietorship;

(2) an estate or trust that does not distribute income to beneficiaries;

(3) a corporation, limited liability company, partnership or other entity not a sole proprietorship taxed as a corporation for federal income tax purposes for the taxable year;

(4) a partnership that is organized as an investment partnership in which the partners' income is derived solely from interest, dividends and sales of securities;

(5) a single member limited liability company that is treated as a disregarded entity for federal income tax purposes; or

(6) a publicly traded partnership as defined in Subsection (b) of Section 7704 of the Internal Revenue Code;

I. "person" means an individual, club, company, cooperative association, corporation, estate, firm, joint venture, partnership, receiver, syndicate, trust or other association, limited liability company, limited liability partnership or gas, water or electric utility owned or operated by a county or municipality and, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, a department or an instrumentality thereof;

J. "remittee" means a person that is entitled to payment of oil and gas proceeds by a remitter; and

K. "remitter" means a person that pays oil and gas proceeds to any remittee."

Chapter 53 Section 10 Laws 2010

Section 10. Section 7-3A-3 NMSA 1978 (being Laws 2003, Chapter 86, Section 6) is amended to read:

"7-3A-3. WITHHOLDING FROM OIL AND GAS PROCEEDS AND NET INCOME.--

A. Except as otherwise provided in this section, a remitter shall deduct and withhold from each payment of oil and gas proceeds being made to a remittee an amount equal to the rate specified in Subsection D of this section multiplied by the amount prior to withholding that otherwise would have been payable to the remittee.

B. Except as otherwise provided in this section, a pass-through entity shall deduct and withhold from each owner's share of net income for that quarter an amount equal to the rate specified in Subsection D of this section multiplied by the owner's share of that net income, reduced, but not below zero, by the amount required to be withheld from the owner's net income under Subsection A of this section.

C. The obligation to deduct and withhold from payments or net income as provided in Subsections A and B of this section does not apply to payments that are made to:

(1) a corporation whose principle place of business is in New Mexico or an individual who is a resident of New Mexico;

(2) the United States, this state or any agency, instrumentality or political subdivision of either;

(3) any federally recognized Indian nation, tribe or pueblo or any agency, instrumentality or political subdivision thereof; or

(4) organizations that have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the Internal Revenue Code.

D. The rate of withholding shall be set by a department directive; provided that the rate may not exceed the higher of the maximum bracket rate set by Section 7-2-7 NMSA 1978 for the taxable year or the maximum bracket rate set by Section 7-2A-5 NMSA 1978 for the taxable year; and provided further that remitters shall be given ninety days' notice of a change in the rate.

E. If a pass-through entity has been in existence for at least one full taxable year prior to the current calendar year, the pass-through entity may use one-fourth of its total net income for the preceding full taxable year to compute the amount required to be deducted and withheld each quarter under Subsection B of this section.

F. If a remitter receives oil and gas proceeds from which an amount has been deducted and withheld pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act or a pass-through entity has deducted and withheld an amount pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act from the net income of an owner that is also a pass-through entity, the remitter or payee pass-through entity may take credit for that amount in determining the amount the remitter or payee pass-through entity must withhold and deduct pursuant to this section.

G. If the amount to be withheld from all payments to a remittee in a calendar quarter has not exceeded thirty dollars (\$30.00) and a payment to a remittee is less than ten dollars (\$10.00), no withholding is required. If the amount to be withheld from an owner's share of net income in any calendar quarter is less than thirty dollars (\$30.00), no withholding is required.

H. At the option of a remitter or pass-through entity, a remitter or pass-through entity may agree with a remittee or an owner that the remittee or owner pay the amount that the remitter or pass-through entity would have been required to withhold and remit to the department on behalf of the remittee or owner pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act. The payments by the remittee or owner shall be remitted on the dates set forth in Section 7-3A-6 NMSA 1978 on forms and in the manner required by the department."

Chapter 53 Section 11 Laws 2010

Section 11. Section 7-3A-4 NMSA 1978 (being Laws 2003, Chapter 86, Section 7) is amended to read:

"7-3A-4. DEDUCTIONS CONSIDERED TAXES.--Amounts deducted under the provisions of the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act are a collected tax. A remittee who receives payment of oil and gas proceeds or an owner with a share of net income does not have a right of action against the remitter or pass-through entity for the amount deducted and withheld from the oil and gas proceeds or net income."

Chapter 53 Section 12 Laws 2010

Section 12. Section 7-3A-5 NMSA 1978 (being Laws 2003, Chapter 86, Section 8) is amended to read:

"7-3A-5. REMITTERS AND PASS-THROUGH ENTITIES LIABLE FOR AMOUNTS DEDUCTED AND WITHHELD--EXCEPTIONS.--

A. Every remitter or pass-through entity is liable for:

(1) amounts required to be deducted and withheld by the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act regardless of whether the amounts were in fact deducted and withheld; and

(2) for the amounts that a remittee or an owner has agreed to remit pursuant to Subsection H of Section 7-3A-3 NMSA 1978, once the department has notified the remitter or pass-through entity that the remittee or owner has failed to remit.

B. A remitter or pass-through entity is not liable for amounts required to be deducted and withheld by the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act but not deducted or withheld if:

(1) the remitter or pass-through entity fails to deduct and withhold the required amounts and if the tax against which the required amounts would have been credited is paid; or

(2) the remitter's or pass-through entity's failure to deduct and withhold the required amounts is due to reasonable cause.

C. The making of a timely election for federal income tax purposes that changes the net income of a pass-through entity in a prior quarter is a reasonable cause for failure to withhold and deduct the required amounts on the change in net income due to the election."

Chapter 53 Section 13 Laws 2010

Section 13. Section 7-3A-6 NMSA 1978 (being Laws 2003, Chapter 86, Section 9) is amended to read:

"7-3A-6. DATE PAYMENT DUE--FORM.--

A. Amounts withheld under the provisions of the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act are due on or before the twenty-fifth day of the month following the end of the calendar quarter when the taxes were required to be withheld.

B. The amount withheld shall be remitted on a form and in a manner required by the department, provided that amounts withheld and remitted from oil and gas proceeds are kept distinct from every other tax or withheld amount."

Chapter 53 Section 14 Laws 2010

Section 14. Section 7-3A-7 NMSA 1978 (being Laws 2003, Chapter 86, Section 10) is amended to read:

"7-3A-7. STATEMENTS OF WITHHOLDING.--

A. Every remitter shall:

(1) file an annual statement of withholding for each remittee that:

(a) is in a form prescribed by the department;

(b) is filed with the department on or before the last day of February of the year following that for which the statement is made; and

(c) includes the total oil and gas proceeds paid to the remittee and the total amount of tax withheld for the calendar year; and

(2) provide a copy of the annual statement of withholding to the remittee on or before February 15 of the year following the year for which the statement is made.

B. Every pass-through entity doing business in New Mexico shall:

(1) file an annual information return with the department that:

(a) is filed on or before the due date of the entity's federal return for the taxable year;

(b) is signed by the business manager or one of the owners of the pass-through entity; and

(c) contains all information required by the department, including the pass-through entity's gross income; the pass-through entity's net income; the amount of each owner's share of the pass-through entity's net income; and the name, address and tax identification number of each owner entitled to a share of net income; and

(2) provide to each of its owners sufficient information to enable the owner to comply with the provisions of the Income Tax Act and the Corporate Income and Franchise Tax Act with respect to the owner's share of net income.

C. The department shall compile each year the annual statements of withholding received from the remitters and the annual information returns received from pass-through entities and compare the compilations with the records of corporations, individuals, estates or trusts filing income tax returns."

Chapter 53 Section 15 Laws 2010

Section 15. Section 7-3A-8 NMSA 1978 (being Laws 2003, Chapter 86, Section 11) is amended to read:

"7-3A-8. WITHHELD AMOUNTS CREDITED AGAINST INCOME TAX.--The entire amount of oil and gas proceeds and net income upon which the tax was deducted and withheld or upon which payments were made by owners in lieu of withholding shall be included in the base income of the remittee for purposes of the Income Tax Act and the Corporate Income and Franchise Tax Act. The amount of tax deducted and withheld or payments made by owners in lieu of withholding pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act during the taxable year shall be credited against any income tax or corporate income tax due from the remittee or owner."

Chapter 53 Section 16 Laws 2010

Section 16. Section 7-3A-9 NMSA 1978 (being Laws 2003, Chapter 86, Section 12) is amended to read:

"7-3A-9. INTERPRETATION OF ACT--ADMINISTRATION AND ENFORCEMENT OF ACT.--

A. The department shall interpret the provisions of the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act.

B. The department shall administer and enforce the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act, and the Tax Administration Act applies to

the administration and enforcement of the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act."

Chapter 53 Section 17 Laws 2010

Section 17. TEMPORARY PROVISION.--For a taxable year beginning on or after January 1, 2011 but before January 1, 2012, no remitter or pass-through entity shall be subject to the penalty imposed pursuant to Section 7-1-69 NMSA 1978 for failure to comply with the provisions of the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act.

Chapter 53 Section 18 Laws 2010

Section 18. REPEAL.--Section 7-3-12 NMSA 1978 (being Laws 1999, Chapter 17, Section 3, as amended) is repealed.

Chapter 53 Section 19 Laws 2010

Section 19. APPLICABILITY.--The provisions of this act are applicable to taxable years beginning on or after January 1, 2011.

House Bill 120, aa, w/coc

Approved March 8, 2010

LAWS 2010, CHAPTER 54

AN ACT

RELATING TO CREDIT REPORTING; REQUIRING A CONSUMER REPORTING AGENCY TO REMOVE INFORMATION CONTESTED BECAUSE OF IDENTITY THEFT OR FALSE REPORTING; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 54 Section 1 Laws 2010

Section 1. Section 56-3A-1 NMSA 1978 (being Laws 2007, Chapter 106, Section 1) is amended to read:

"56-3A-1. SHORT TITLE.--Chapter 56, Article 3A NMSA 1978 may be cited as the "Fair Credit Reporting and Identity Security Act"."

Chapter 54 Section 2 Laws 2010

Section 2. Section 56-3A-2 NMSA 1978 (being Laws 2007, Chapter 106, Section 2) is amended to read:

"56-3A-2. DEFINITIONS.--As used in the Fair Credit Reporting and Identity Security Act:

A. "consumer" means an individual who is a resident of New Mexico;

B. "consumer reporting agency" means any person that, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing credit reports to third parties;

C. "credit report" means a written, oral or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living that is used or expected to be used or collected for the purpose of serving as a factor in establishing the consumer's eligibility for credit, insurance, investment, benefit, employment or other purpose as authorized by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681a;

D. "declaration of removal" means an identity theft report with a sworn affidavit that is delivered by regular or certified mail or facsimile or delivered electronically to a consumer reporting agency that operates within New Mexico and which affidavit states:

(1) that the consumer is entitled to removal of information in the consumer reporting agency's files on grounds that the consumer is the victim of identity theft; and

(2) the address at which the consumer is available for service of process by the consumer reporting agency and proper identifying information by which the consumer can be identified by the consumer reporting agency;

E. "person" means an individual, corporation, firm, association, organization, trust, estate, cooperative, business, partnership, limited liability company, joint venture, governmental agency or subdivision or any legal or commercial entity;

F. "security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer's credit report or score relating to the extension of credit or the opening of new accounts without the express authorization of the consumer; and

G. "operates within New Mexico" means accepting or maintaining a credit report on a person that resides within New Mexico."

Chapter 54 Section 3 Laws 2010

Section 3. A new section of the Fair Credit Reporting and Identity Security Act is enacted to read:

"DECLARATION OF REMOVAL--PROCEDURES.--

A. A consumer may file a declaration of removal with a consumer reporting agency operating within New Mexico declaring that the consumer:

(1) is the victim of identity theft;

(2) is eligible for removal of information reported to or by the consumer reporting agency on the basis of identity theft;

(3) is available for service of process at a conclusively valid designated address for at least thirty days; and

(4) discloses proper identifying information by which the consumer may be identified by the consumer reporting agency.

B. The attorney general may publish a sample declaration of removal in compliance with the applicable requirements of Subsection A of this section. The declaration of removal published by the attorney general is not required to be used. A consumer may use other forms that serve the same purpose and that are in compliance with the applicable requirements of Subsection A of this section.

C. A consumer reporting agency shall make available on a web site and on all credit reports of the consumer reporting agency the means for contacting the consumer reporting agency through a physical mailing address, by telephone and facsimile, and through use of a web site and an internet electronic mailing address. A consumer reporting agency shall state on a web site and on all credit reports of the consumer the methods for submitting a declaration of removal.

D. Within five days of receiving a declaration of removal and, if applicable, receipt of a fee as authorized in Subsection I of Section 56-3A-3 NMSA 1978, a consumer reporting agency shall remove from its files and credit reports of the affected consumer the information that is the subject of the declaration of removal and notify the consumer once the removal is complete. A consumer reporting agency shall not state on a credit report that information was removed at the request of a declaration of removal and shall not use that information to suggest or otherwise state or imply to a third party that the affected consumer has a negative credit score, history, report or rating.

E. A consumer reporting agency may restore the information that was the subject of a declaration of removal upon:

(1) request of the affected consumer; or

(2) a court order after the adjudication of the alleged debt in the judicial district in which the consumer resides."

Chapter 54 Section 4 Laws 2010

Section 4. Section 56-3A-3 NMSA 1978 (being Laws 2007, Chapter 106, Section 3) is amended to read:

"56-3A-3. SECURITY FREEZE.--

A. A consumer may elect to place a security freeze on the consumer's credit report by making a request to a consumer reporting agency by means of certified or regular mail sent to an address designated by the consumer reporting agency, or by means of a telephone or a secure electronic method if such means are provided by the agency. A consumer shall provide any personal identification required by the consumer reporting agency and pay a fee, if applicable.

B. A consumer reporting agency shall place a security freeze on a consumer's credit report no later than three business days after receiving a request from the consumer.

C. Within five business days of placing a security freeze on a consumer's credit report, a consumer reporting agency shall:

(1) send a written confirmation of the security freeze to the consumer; and

(2) provide the consumer with a unique personal identification number, password or similar device to be used by the consumer when providing authorization for the release of the consumer's credit report to a specific person or for a specific period of time or for permanent removal of the freeze.

D. While a security freeze is in effect, a consumer may authorize a consumer reporting agency to release the consumer's credit report to a specific person or to release the credit report for a specific period of time by contacting the consumer reporting agency by regular or certified mail or by telephone, and as of September 1, 2008, by contacting the consumer reporting agency by mail, by telephone or by a secure electronic method, and providing:

(1) proper identification;

(2) the unique personal identification number, password or similar device;

(3) information regarding the party that is to have access to the credit report or the time period during which the credit report can be released; and

(4) payment of a fee, if applicable.

E. A consumer reporting agency that receives a request pursuant to Subsection D of this section shall release a consumer's credit report as requested by the consumer within three business days after the business day on which the consumer's request by regular or certified mail or by telephone is received by the consumer reporting agency. As of September 1, 2008, a consumer reporting agency that receives a request pursuant to Subsection D of this section shall release a consumer's credit report as requested by the consumer within fifteen minutes after the consumer's request is received by the consumer reporting agency through the use of a telephone or a secure electronic method provided by the agency, which may include the use of the internet, facsimile or other electronic means; provided that the consumer reporting agency is not required to release the credit report within fifteen minutes unless the consumer's request is received by the consumer reporting agency between the hours of 6:00 a.m. and 9:30 p.m. mountain standard or mountain daylight time, as applicable, Sunday through Saturday.

F. A consumer reporting agency need not release a credit report within the time periods set forth in Subsection E of this section if:

(1) the consumer fails to meet the requirements of Subsection D of this section; or

(2) the consumer reporting agency's ability to remove the security freeze within fifteen minutes is prevented by:

(a) an act of God, including fire, earthquake, hurricane, storm or similar natural disaster or phenomenon;

(b) unauthorized or illegal acts by a third party, including terrorism, sabotage, riots, vandalism, labor strikes or disputes disrupting operations or similar occurrences;

(c) operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failure inhibiting response time or similar disruption;

(d) governmental action, including emergency orders or regulations, judicial or law enforcement actions or similar directives;

(e) regularly scheduled maintenance of, or updates to, the consumer reporting agency's systems during other than normal business hours; or

(f) commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled.

G. If a consumer reporting agency erroneously releases information on a credit report while a security freeze is in effect and without a consumer's authorization, it shall notify the consumer of the release of information within five business days of the agency's discovery of the erroneous release of information and inform the consumer of the specific information released and the third party to whom it has been released.

H. A security freeze shall remain in place until a consumer requests its removal. A consumer reporting agency shall remove the security freeze within three business days after receiving a request from a consumer who provides the unique personal identification number, password or similar device and proper identification.

I. A consumer reporting agency may charge a consumer a fee of no more than ten dollars (\$10.00) for the placement of a security freeze or for processing a declaration of removal. A consumer reporting agency may charge a fee of no more than five dollars (\$5.00) for the release of a credit report, upon which a security freeze has been placed, to a specific person or for a specific period of time. A consumer reporting agency may charge a fee of no more than five dollars (\$5.00) for the removal of a security freeze or to change a declaration of removal. A fee shall not be charged to a consumer who is sixty-five years of age or older or to a victim of identity theft who provides a valid police or investigative report filed with a law enforcement agency alleging the crime of identity theft. A consumer reporting agency shall accept payment by check sent via regular or certified mail and by debit or credit card via a secure electronic method and telephone and shall accept automatic clearinghouse and electronic fund transfer payments.

J. If a consumer's credit report was frozen due to a material misrepresentation of fact by the consumer and a consumer reporting agency intends to remove the freeze, the consumer reporting agency shall notify the consumer in writing five business days prior to removing the security freeze on the consumer's credit report.

K. A consumer reporting agency may advise a third party that a security freeze is in effect with respect to a consumer's credit report. A consumer reporting agency shall not suggest or otherwise state or imply to a third party that the security freeze reflects a negative credit score, history, report or rating.

L. The provisions of this section do not prevent a consumer reporting agency from releasing a consumer's credit report:

(1) to a person or the person's subsidiary, affiliate, agent or assignee with which the consumer has or, prior to assignment, had an account, contract

or debtor-creditor relationship for the purpose of reviewing the account or collecting the financial obligation owing for the account, contract or debt, or to a prospective assignee of a financial obligation owing by the consumer in conjunction with the proposed purchase of the financial obligation. As used in this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases and account upgrades and enhancements;

(2) to a subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted by the consumer pursuant to Subsection D of this section for the purpose of facilitating the extension of credit or other permissible use;

(3) to a person or entity administering a credit file monitoring subscription service to which the consumer has subscribed;

(4) to a person or entity for the purpose of providing a consumer with a copy of the consumer's credit report upon the consumer's request;

(5) to a person acting pursuant to a court order, warrant or subpoena;

(6) to the child support enforcement division of the human services department for the purpose of carrying out its statutory duties of establishing and collecting child support obligations;

(7) to a governmental agency acting to investigate fraud, to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory duties;

(8) to a person for the purposes of prescreening as defined by the federal Fair Credit Reporting Act;

(9) from a consumer reporting agency's database or file that consists only of and is used solely for one or more of the following:

(a) criminal record information;

(b) tenant screening;

(c) employment screening; or

(d) fraud prevention or detection; or

(10) to a person or entity for use in setting or adjusting an insurance rate, adjusting an insurance claim or underwriting for insurance purposes.

M. The following entities are not required to place a security freeze on a credit report:

(1) a consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer credit reporting agencies and does not maintain a permanent database of credit information from which new consumer credit reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer credit report by another consumer reporting agency;

(2) a check services or fraud prevention services company that issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers or similar methods of payment; or

(3) a deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine abuse or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution."

Chapter 54 Section 5 Laws 2010

Section 5. Section 56-3A-4 NMSA 1978 (being Laws 2007, Chapter 106, Section 4) is amended to read:

"56-3A-4. NOTICE OF RIGHTS.--At any time that a consumer reporting agency is required to provide the consumer with a summary of rights pursuant to Section 609 of the federal Fair Credit Reporting Act, the following notice shall be included:

"New Mexico Consumers Have the

Right to Obtain a Security Freeze or

Submit a Declaration of Removal

You may obtain a security freeze on your credit report to protect your privacy and ensure that credit is not granted in your name without your knowledge. You may submit a declaration of removal to remove information placed in your credit report as a result of being a victim of identity theft. You have a right to place a security freeze on your credit report or submit a declaration of removal pursuant to the Fair Credit Reporting and Identity Security Act.

The security freeze will prohibit a consumer reporting agency from releasing any information in your credit report without your express authorization or approval.

The security freeze is designed to prevent credit, loans and services from being approved in your name without your consent. When you place a security freeze on your credit report, you will be provided with a personal identification number, password or similar device to use if you choose to remove the freeze on your credit report or to temporarily authorize the release of your credit report to a specific party or parties or for a specific period of time after the freeze is in place. To remove the freeze or to provide authorization for the temporary release of your credit report, you must contact the consumer reporting agency and provide all of the following:

(1) the unique personal identification number, password or similar device provided by the consumer reporting agency;

(2) proper identification to verify your identity;

(3) information regarding the third party or parties who are to receive the credit report or the period of time for which the credit report may be released to users of the credit report; and

(4) payment of a fee, if applicable.

A consumer reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later than three business days after receiving the request. As of September 1, 2008, a consumer reporting agency shall comply with the request within fifteen minutes of receiving the request by a secure electronic method or by telephone.

A security freeze does not apply in all circumstances, such as where you have an existing account relationship and a copy of your credit report is requested by your existing creditor or its agents for certain types of account review, collection, fraud control or similar activities; for use in setting or adjusting an insurance rate or claim or insurance underwriting; for certain governmental purposes; and for purposes of prescreening as defined in the federal Fair Credit Reporting Act.

If you are actively seeking a new credit, loan, utility, telephone or insurance account, you should understand that the procedures involved in lifting a security freeze may slow your own applications for credit. You should plan ahead and lift a freeze, either completely if you are shopping around or specifically for a certain creditor, with enough advance notice before you apply for new credit for the lifting to take effect. You should contact a consumer reporting agency and request it to lift the freeze at least three business days

before applying. As of September 1, 2008, if you contact a consumer reporting agency by a secure electronic method or by telephone, the consumer reporting agency should lift the freeze within fifteen minutes. You have a right to bring a civil action against a consumer reporting agency that violates your rights under the Fair Credit Reporting and Identity Security Act".

Chapter 54 Section 6 Laws 2010

Section 6. Section 56-3A-5 NMSA 1978 (being Laws 2007, Chapter 106, Section 5) is amended to read:

"56-3A-5. VIOLATIONS--CIVIL LIABILITY.--If a consumer reporting agency violates the provisions of the Fair Credit Reporting and Identity Security Act, the affected consumer or the attorney general may bring a civil action against the consumer reporting agency for:

A. injunctive relief to prevent further violation of the Fair Credit Reporting and Identity Security Act;

B. any actual damages sustained by the consumer as a result of a violation of the Fair Credit Reporting and Identity Security Act;

C. a civil penalty in an amount not to exceed two thousand dollars (\$2,000) for each violation of the security freeze or each violation of the provisions of Subsection D of Section 3 of this 2010 act; and

D. costs of the action and reasonable attorney fees."

Chapter 54 Section 7 Laws 2010

Section 7. Section 56-3A-6 NMSA 1978 (being Laws 2007, Chapter 106, Section 6) is amended to read:

"56-3A-6. SEVERABILITY.--If any part or application of the Fair Credit Reporting and Identity Security Act is held invalid, the remainder or its application to other persons or situations shall not be affected."

HJC/House Bill 131

Approved March 8, 2010

LAWS 2010, CHAPTER 55

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; DISCONTINUING THE TEMPORARY INCREASE IN THE WEEKLY BENEFIT AMOUNT; ESTABLISHING A TEMPORARY SCHEDULE FOR CONTRIBUTIONS; ABOLISHING THE STATE UNEMPLOYMENT TRUST FUND; TRANSFERRING BALANCES.

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

Chapter 55 Section 1 Laws 2010

Section 1. Section 51-1-4 NMSA 1978 (being Laws 2003, Chapter 47, Section 8, as amended) is amended to read:

"51-1-4. MONETARY COMPUTATION OF BENEFITS--PAYMENT GENERALLY.--

A. All benefits provided herein are payable from the unemployment compensation fund. All benefits shall be paid in accordance with rules prescribed by the secretary through employment offices or other agencies as the secretary approves by general rule.

B. Weekly benefits shall be as follows:

(1) an individual's "weekly benefit amount" is an amount equal to fifty-three and one-half percent of the average weekly wage for insured work paid to the individual in that quarter of the individual's base period in which total wages were highest. No benefit as so computed may be less than ten percent or more than fifty-three and one-half percent of the state's average weekly wage for all insured work. The state's average weekly wage shall be computed from all wages reported to the department from employing units in accordance with rules of the secretary for the period ending June 30 of each calendar year divided by the total number of covered employees divided by fifty-two, effective for the benefit years commencing on or after the first Sunday of the following calendar year. An individual is not eligible to receive benefits unless the individual has wages in at least two quarters of that individual's base period. For the purposes of this subsection, "total wages" means all remuneration for insured work, including commissions and bonuses and the cash value of all remuneration in a medium other than cash;

(2) an eligible individual who is unemployed in any week during which the individual is in a continued claims status shall be paid, with respect to the week, a benefit in an amount equal to the individual's weekly benefit amount, less that part of the wages, if any, or earnings from self-employment, payable to the individual with respect to such week that is in excess of one-fifth of the individual's weekly benefit amount. For purposes of this subsection only, "wages" includes all remuneration for services actually performed in a week for which benefits are claimed, vacation pay for a

period for which the individual has a definite return-to-work date, wages in lieu of notice and back pay for loss of employment but does not include payments through a court for time spent in jury service;

(3) notwithstanding any other provision of this section, an eligible individual who, pursuant to a plan financed in whole or in part by a base-period employer of the individual, is receiving a governmental or other pension, retirement pay, annuity or any other similar periodic payment that is based on the previous work of the individual and who is unemployed with respect to any week ending subsequent to April 9, 1981 shall be paid with respect to the week, in accordance with rules prescribed by the secretary, compensation equal to the individual's weekly benefit amount reduced, but not below zero, by the prorated amount of the pension, retirement pay, annuity or other similar periodic payment that exceeds the percentage contributed to the plan by the eligible individual. The maximum benefit amount payable to the eligible individual shall be an amount not more than twenty-six times the individual's reduced weekly benefit amount. If payments referred to in this section are being received by an individual under the federal Social Security Act, the division shall take into account the individual's contribution and make no reduction in the weekly benefit amount;

(4) in the case of a lump-sum payment of a pension, retirement or retired pay, annuity or other similar payment by a base-period employer that is based on the previous work of the individual, the payment shall be allocated, in accordance with rules prescribed by the secretary, and shall reduce the amount of unemployment compensation paid, but not below zero, in accordance with Paragraph (3) of this subsection; and

(5) the retroactive payment of a pension, retirement or retired pay, annuity or any other similar periodic payment as provided in Paragraphs (3) and (4) of this subsection attributable to weeks during which an individual has claimed or has been paid unemployment compensation shall be allocated to those weeks and shall reduce the amount of unemployment compensation for those weeks, but not below zero, by an amount equal to the prorated amount of the pension. Any overpayment of unemployment compensation benefits resulting from the application of the provisions of this paragraph shall be recovered from the claimant in accordance with the provisions of Section 51-1-38 NMSA 1978.

C. An individual otherwise eligible for benefits shall be paid for each week of unemployment, in addition to the amount payable under Subsection B of this section, the sum of twenty-five dollars (\$25.00) for each unemancipated child under the age of eighteen, up to a maximum of four and subject to the maximum stated in Subsection D of this section, of the individual who is in fact dependent upon and wholly or mainly supported by the individual, including:

(1) a child in the individual's custody pending the adjudication of a petition filed by the individual for the adoption of the child in a court of competent jurisdiction; or

(2) a child for whom the individual, under a decree or order from a court of competent jurisdiction, is required to contribute to the child's support and for whom no other person is receiving allowances under the Unemployment Compensation Law if the child is domiciled within the United States or its territories or possessions, the payment to be withheld and paid pursuant to Section 51-1-37.1 NMSA 1978.

D. Dependency benefits shall not exceed fifty percent of the individual's weekly benefit rate. The amount of dependency benefits determined as of the beginning of an individual's benefit year shall not be reduced for the duration of the benefit year, but this provision does not prevent the transfer of dependents' benefits from one spouse to another in accordance with this subsection. If both the husband and wife receive benefits with respect to a week of unemployment, only one of them is entitled to a dependency allowance with respect to a child. The division shall prescribe standards as to who may receive a dependency allowance when both the husband and wife are eligible to receive unemployment compensation benefits. Dependency benefits shall not be paid unless the individual submits documentation satisfactory to the division establishing the existence of the claimed dependent. If the provisions of this subsection are satisfied, an otherwise eligible individual who has been appointed guardian of a dependent child by a court of competent jurisdiction shall be paid dependency benefits.

E. An otherwise eligible individual is entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of twenty-six times the individual's weekly benefit amount, plus any dependency benefit amount pursuant to Subsections C and D of this section, or sixty percent of the individual's wages for insured work paid during the individual's base period.

F. A benefit as determined in Subsection B or C of this section, if not a multiple of one dollar (\$1.00), shall be rounded to the next lower multiple of one dollar (\$1.00).

G. The secretary may prescribe rules to provide for the payment of benefits that are due and payable to the legal representative, dependents, relatives or next of kin of claimants since deceased. These rules need not conform with the laws governing successions, and the payment shall be deemed a valid payment to the same extent as if made under a formal administration of the succession of the claimant.

H. The division, on its own initiative, may reconsider a monetary determination whenever it is determined that an error in computation or identity has occurred or that wages of the claimant pertinent to such determination but not considered have been newly discovered or that the benefits have been allowed or denied on the basis of misrepresentation of fact, but no redetermination shall be made after one year from the date of the original monetary determination. Notice of a redetermination shall be given to all interested parties and shall be subject to an appeal in the same manner as the original determination. In the event that an appeal involving an original monetary determination is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from redetermination."

Chapter 55 Section 2 Laws 2010

Section 2. Section 51-1-11 NMSA 1978 (being Laws 2003, Chapter 47, Section 11, as amended) is amended to read:

"51-1-11. FUTURE RATES BASED ON BENEFIT EXPERIENCE.--

A. The division shall maintain a separate account for each contributing employer and shall credit the contributing employer's account with all contributions paid by that employer under the Unemployment Compensation Law. Nothing in the Unemployment Compensation Law shall be construed to grant an employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund.

B. Benefits paid to an individual shall be charged against the accounts of the individual's base-period employers on a pro rata basis according to the proportion of the individual's total base-period wages received from each employer, except that no benefits paid to a claimant as extended benefits under the provisions of Section 51-1-48 NMSA 1978 shall be charged to the account of any base-period employer who is not on a reimbursable basis and who is not a governmental entity and, except as the secretary shall by rule prescribe otherwise, in the case of benefits paid to an individual who:

(1) left the employ of a base-period employer who is not on a reimbursable basis voluntarily without good cause in connection with the individual's employment;

(2) was discharged from the employment of a base-period employer who is not on a reimbursable basis for misconduct connected with the individual's employment;

(3) is employed part time by a base-period employer who is not on a reimbursable basis and who continues to furnish the individual the same part-time work while the individual is separated from full-time work for a nondisqualifying reason; or

(4) received benefits based upon wages earned from a base-period employer who is not on a reimbursable basis while attending approved training or school on a full-time basis under the provisions of Subsection E of Section 51-1-5 NMSA 1978.

C. The division shall not charge a contributing or reimbursing base-period employer's account with any portion of benefit amounts that the division can bill to or recover from the federal government as either regular or extended benefits.

D. The division shall not charge a contributing base-period employer's account with any portion of benefits paid to an individual for dependent allowance or because the individual to whom benefits are paid:

(1) separated from employment due to domestic abuse, as "domestic abuse" is defined in Section 40-13-2 NMSA 1978;

(2) is enrolled in approved training or is attending school on a full-time basis; or

(3) voluntarily left work to relocate because of a spouse, who is in the military service of the United States or the New Mexico national guard, receiving permanent change of station orders, activation orders or unit deployment orders.

E. All contributions to the fund shall be pooled and available to pay benefits to any individual entitled thereto, irrespective of the source of the contributions.

F. For each calendar year, if, as of the computation date for that year, an employer's account has been chargeable with benefits throughout the preceding thirty-six months, the secretary shall classify the employer in accordance with its actual experience of benefits charged against its accounts. For such an employer, the contribution rate shall be determined pursuant to Subsection I of this section on the basis of the employer's record and the condition of the fund as of the computation date for the calendar year. If, as of the computation date for a calendar year, an employer's account has not been chargeable with benefits throughout the preceding thirty-six months, the contribution rate for that employer for the calendar year shall be two percent, except that:

(1) an individual, type of organization or employing unit that acquires all or part of the trade or business of another employing unit, pursuant to Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA 1978, that has a rate of contribution less than two percent shall be entitled to the transfer of the reduced rate to the extent permitted under Subsection H of this section;

(2) an employer that, at the time of establishing an account, is in business in another state or states and that is not currently doing business in New Mexico may elect, pursuant to Paragraph (3) of this subsection, to receive a beginning contribution rate of two percent or a contribution rate based on the current contribution rate schedule in Paragraph (4) of Subsection I of this section, whichever is lower, if:

(a) the employer has been in operation in the other state or states for at least three years immediately preceding the date of becoming a liable employer in New Mexico, throughout which an individual in the employer's employ could have received benefits if eligible; and

(b) the employer provides the authenticated account history as defined by rule of the secretary from information accumulated from operations in the other state or all the other states to compute a current New Mexico rate; and

(3) the election authorized in Paragraph (2) of this subsection shall be made in writing within thirty days after receiving notice of New Mexico liability and, if not made timely, a two percent rate will be assigned; if the election is made timely, the employer's account will receive the lesser of the computed rate determined by the condition of the account for the computation date immediately preceding the New Mexico liable date, or two percent; rates for subsequent years will be determined by the condition of the account for the computation date.

G. An employer may make voluntary payments in addition to the contributions required under the Unemployment Compensation Law, which shall be credited to the employer's account in accordance with department rule. The voluntary payments shall be included in the employer's account as of the employer's most recent computation date if they are made on or before the following March 1. Voluntary payments when accepted from an employer shall not be refunded in whole or in part.

H. In the case of a transfer of an employing enterprise, notwithstanding any other provision of law, the experience history of the transferred enterprise shall be transferred from the predecessor employer to the successor under the following conditions and in accordance with the applicable rules of the secretary:

(1) as used in this subsection:

(a) "employing enterprise" means a business activity engaged in by a contributing employing unit in which one or more persons have been employed within the current or the three preceding calendar quarters. An "employing enterprise" includes the employer's work force;

(b) "predecessor" means the owner and operator of an employing enterprise immediately prior to the transfer of such enterprise;

(c) "successor" means any person that acquires an employing enterprise and continues to operate such business entity;

(d) "experience history" means the experience rating record and reserve account, including the actual contributions, benefit charges and payroll experience of the employing enterprise;

(e) "common ownership" means that two or more businesses are substantially owned, managed or controlled by the same person or persons;

(f) "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

(g) "violates or attempts to violate" includes an intent to evade, a misrepresentation or a willful nondisclosure;

(2) except as otherwise provided in this subsection, for the purpose of this subsection, two or more employers who are parties to or the subject of any transaction involving the transfer of an employing enterprise shall be deemed to be a single employer and the experience history of the employing enterprise shall be transferred to the successor employer if the successor employer has acquired by the transaction all of the business enterprises of the predecessor; provided that:

(a) all contributions, interest and penalties due from the predecessor employer have been paid;

(b) notice of the transfer has been given in accordance with the rules of the secretary during the calendar year of the transaction transferring the employing enterprise or the date of the actual transfer of control and operation of the employing enterprise;

(c) the successor shall notify the division of the acquisition on or before the due date of the successor's first wage and contribution report. If the successor employer fails to notify the division of the acquisition within this time limit, the division, when it receives actual notice, shall effect the transfer of the experience history and applicable rate of contribution retroactively to the date of the acquisition, and the successor shall pay a penalty of fifty dollars (\$50.00); and

(d) where the transaction involves only a merger, consolidation or other form of reorganization without a substantial change in the ownership and controlling interest of the business entity, as determined by the secretary, the limitations on transfers stated in Subparagraphs (a), (b) and (c) of this paragraph shall not apply. A party to a merger, consolidation or other form of reorganization described in this subparagraph shall not be relieved of liability for any contributions, interest or penalties due and owing from the employing enterprise at the time of the merger, consolidation or other form of reorganization;

(3) the applicable experience history may be transferred to the successor in the case of a partial transfer of an employing enterprise if the successor has acquired one or more of the several employing enterprises of a predecessor but not all of the employing enterprises of the predecessor and each employing enterprise so acquired was operated by the predecessor as a separate store, factory, shop or other separate employing enterprise and the predecessor, throughout the entire period of the contribution with liability applicable to each enterprise transferred, has maintained and preserved payroll records that, together with records of contribution liability and benefit chargeability, can be separated by the parties from the enterprises retained by the predecessor to the satisfaction of the secretary or the secretary's delegate. A partial experience history transfer will be made only if the successor:

(a) notifies the division of the acquisition, in writing, not later than the due date of the successor's first quarterly wage and contribution report after the effective date of the acquisition;

(b) files an application provided by the division that contains the endorsement of the predecessor within thirty days from the delivery or mailing of such application by the division to the successor's last known address; and

(c) files with the application a Form ES-903A or its equivalent with a schedule of the name and social security number of and the wages paid to and the contributions paid for each employee for the three and one-half year period preceding the computation date as defined in Subparagraph (d) of Paragraph (3) of Subsection I of this section through the date of transfer or such lesser period as the enterprises transferred may have been in operation. The application and Form ES-903A shall be supported by the predecessor's permanent employment records, which shall be available for audit by the division. The application and Form ES-903A shall be reviewed by the division and, upon approval, the percentage of the predecessor's experience history attributable to the enterprises transferred shall be transferred to the successor. The percentage shall be obtained by dividing the taxable payrolls of the transferred enterprises for such three and one-half year period preceding the date of computation or such lesser period as the enterprises transferred may have been in operation by the predecessor's entire payroll;

(4) if, at the time of a transfer of an employing enterprise in whole or in part, both the predecessor and the successor are under common ownership, then the experience history attributable to the transferred business shall also be transferred to and combined with the experience history attributable to the successor employer. The rates of both employers shall be recalculated and made effective immediately upon the date of the transfer;

(5) whenever a person, who is not currently an employer, acquires the trade or business of an employing enterprise, the experience history of the acquired business shall not be transferred to the successor if the secretary or the secretary's designee finds that the successor acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, the successor shall be assigned the applicable new employer rate pursuant to this section. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contribution, the secretary or the secretary's designee shall consider:

(a) the cost of acquiring the business;

(b) whether the person continued the business enterprise of the acquired business;

(c) how long such business enterprise was continued; and

(d) whether a substantial number of new employees were hired for performance of duties unrelated to those that the business activity conducted prior to acquisition;

(6) if, following a transfer of experience history pursuant to this subsection, the department determines that a substantial purpose of the transfer of the employing enterprise was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to the combined account;

(7) the secretary shall adopt such rules as are necessary to interpret and carry out the provisions of this subsection, including rules that:

(a) describe how experience history is to be transferred; and

(b) establish procedures to identify the type of transfer or acquisition of an employing enterprise; and

(8) a person who knowingly violates or attempts to violate a rule adopted pursuant to Paragraph (7) of this subsection, who transfers or acquires, or attempts to transfer or acquire, an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions or who knowingly advises another person to violate a rule adopted pursuant to Paragraph (7) of this subsection or to transfer or acquire an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions is guilty of a misdemeanor and shall be punished by a fine of not less than one thousand five hundred dollars (\$1,500) or more than three thousand dollars (\$3,000) or, if an individual, by imprisonment for a definite term not to exceed ninety days or both. In addition, such a person shall be subject to the following civil penalty imposed by the secretary:

(a) if the person is an employer, the person shall be assigned the highest contribution rate established by the provisions of this section for the calendar year in which the violation occurs and the three subsequent calendar years; provided that, if the difference between the increased penalty rate and the rate otherwise applicable would be less than two percent of the employer's payroll, the contribution rate shall be increased by two percent of the employer's payroll for the calendar year in which the violation occurs and the three subsequent calendar years; or

(b) if the person is not an employer, the secretary may impose a civil penalty not to exceed three thousand dollars (\$3,000).

I. For each calendar year, if, as of the computation date for that year, an employer's account has been chargeable with benefits throughout the preceding thirty-six months, the contribution rate for that employer shall be determined as follows:

(1) the total assets in the fund and the total of the last annual payrolls of all employers subject to contributions as of the computation date for each year shall be determined. These annual totals are here called "the fund" and "total payrolls". For each year, the "reserve" of each employer shall be fixed by the excess of the employer's total contributions over total benefit charges computed as a percentage of the employer's average payroll reported for contributions. The determination of each employer's annual rate, computed as of the computation date for each calendar year, shall be made by matching the employer's reserve as shown in the reserve column with the corresponding rate in the rate column of the applicable rate schedule of the table provided in Paragraph (4) or (5) of this subsection;

(2) for each calendar year after 2011, except as otherwise provided, each employer's rate shall be the corresponding rate in:

(a) Contribution Schedule 0 of the table provided in Paragraph (4) of this subsection if the fund equals at least two and three-tenths percent of the total payrolls;

(b) Contribution Schedule 1 of the table provided in Paragraph (4) of this subsection if the fund equals less than two and three-tenths percent but not less than one and seven-tenths percent of the total payrolls;

(c) Contribution Schedule 2 of the table provided in Paragraph (4) of this subsection if the fund equals less than one and seven-tenths percent but not less than one and three-tenths percent of the total payrolls;

(d) Contribution Schedule 3 of the table provided in Paragraph (4) of this subsection if the fund equals less than one and three-tenths percent but not less than one percent of the total payrolls;

(e) Contribution Schedule 4 of the table provided in Paragraph (4) of this subsection if the fund equals less than one percent but not less than seven-tenths percent of the total payrolls;

(f) Contribution Schedule 5 of the table provided in Paragraph (4) of this subsection if the fund equals less than seven-tenths percent but not less than three-tenths percent of the total payrolls; or

(g) Contribution Schedule 6 of the table provided in Paragraph (4) of this subsection if the fund equals less than three-tenths percent of the total payrolls;

(3) as used in this section:

(a) "annual payroll" means the total amount of remuneration from an employer for employment during a twelve-month period ending on a

computation date, and "average payroll" means the average of the last three annual payrolls;

(b) "base-period wages" means the wages of an individual for insured work during the individual's base period on the basis of which the individual's benefit rights were determined;

(c) "base-period employers" means the employers of an individual during the individual's base period; and

(d) "computation date" for each calendar year means the close of business on June 30 of the preceding calendar year;

(4) table of employer reserves and contribution rate schedules:

Employer Reserve	Contribution Schedule 0	Contribution Schedule 1	Contribution Schedule 2	Contribution Schedule 3
10.0% and over	0.03%	0.05%	0.1%	0.6%
9.0%-9.9%	0.06%	0.1%	0.2%	0.9%
8.0%-8.9%	0.09%	0.2%	0.4%	1.2%
7.0%-7.9%	0.10%	0.4%	0.6%	1.5%
6.0%-6.9%	0.30%	0.6%	0.8%	1.8%
5.0%-5.9%	0.50%	0.8%	1.1%	2.1%
4.0%-4.9%	0.80%	1.1%	1.4%	2.4%
3.0%-3.9%	1.20%	1.4%	1.7%	2.7%
2.0%-2.9%	1.50%	1.7%	2.0%	3.0%
1.0%-1.9%	1.80%	2.0%	2.4%	3.3%
0.9%-0.0%	2.40%	2.4%	3.3%	3.6%
(-0.1%)-(-0.5%)	3.30%	3.3%	3.6%	3.9%
(-0.5%)-(-1.0%)	4.20%	4.2%	4.2%	4.2%
(-1.0%)-(-2.0%)	5.00%	5.0%	5.0%	5.0%

Under (-2.0%)	5.40%	5.4%	5.4%	5.4%
Employer	Contribution	Contribution	Contribution	
Reserve	Schedule 4	Schedule 5	Schedule 6	
10.0% and over	0.9%	1.2%	2.7%	
9.0%-9.9%	1.2%	1.5%	2.7%	
8.0%-8.9%	1.5%	1.8%	2.7%	
7.0%-7.9%	1.8%	2.1%	2.7%	
6.0%-6.9%	2.1%	2.4%	2.7%	
5.0%-5.9%	2.4%	2.7%	3.0%	
4.0%-4.9%	2.7%	3.0%	3.3%	
3.0%-3.9%	3.0%	3.3%	3.6%	
2.0%-2.9%	3.3%	3.6%	3.9%	
1.0%-1.9%	3.6%	3.9%	4.2%	
0.9%-0.0%	3.9%	4.2%	4.5%	
(-0.1%)-(-0.5%)	4.2%	4.5%	4.8%	
(-0.5%)-(-1.0%)	4.5%	4.8%	5.1%	
(-1.0%)-(-2.0%)	5.0%	5.1%	5.3%	
Under (-2.0%)	5.4%	5.4%	5.4%;	

(5) from July 1, 2010 through December 31, 2010, each employer making contributions pursuant to this subsection shall make a contribution at the rate specified in Contribution Schedule 0; and

(6) from January 1, 2011 through December 31, 2011, each employer making contributions pursuant to this subsection shall make a contribution at the rate specified in Contribution Schedule 1.

J. The division shall promptly notify each employer of the employer's rate of contributions as determined for any calendar year pursuant to this section. Such

notification shall include the amount determined as the employer's average payroll, the total of all of the employer's contributions paid on the employer's behalf and credited to the employer's account for all past years and total benefits charged to the employer's account for all such years. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing, in any proceeding involving the employer's rate of contributions or contribution liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

K. The division shall provide each contributing employer, within ninety days of the end of each calendar quarter, a written determination of benefits chargeable to the employer's account. Such determination shall become conclusive and binding upon the employer for all purposes unless, within thirty days after the mailing of the determination to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such determination, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing in any proceeding involving the employer's contribution liability to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

L. The contributions, together with interest and penalties thereon imposed by the Unemployment Compensation Law, shall not be assessed nor shall action to collect the same be commenced more than four years after a report showing the amount of the contributions was due. In the case of a false or fraudulent contribution report with intent to evade contributions or a willful failure to file a report of all contributions due, the contributions, together with interest and penalties thereon, may be assessed or an action to collect such contributions may be begun at any time. Before the expiration of such period of limitation, the employer and the secretary may agree in writing to an extension thereof and the period so agreed on may be extended by subsequent agreements in writing. In any case where the assessment has been made and action to collect has been commenced within four years of the due date of any contribution, interest or penalty, including the filing of a warrant of lien by the secretary pursuant to Section 51-1-36 NMSA 1978, such action shall not be subject to any period of limitation.

M. The secretary shall correct any error in the determination of an employer's rate of contribution during the calendar year to which the erroneous rate applies, notwithstanding that notification of the employer's rate of contribution may have been issued and contributions paid pursuant to the notification. Upon issuance by the division of a corrected rate of contribution, the employer shall have the same rights to review and redetermination as provided in Subsection J of this section.

N. Any interest required to be paid on advances to this state's unemployment compensation fund under Title 12 of the Social Security Act shall be paid in a timely manner as required under Section 1202 of Title 12 of the Social Security Act and shall not be paid, directly or indirectly, by the state from amounts in the state's unemployment compensation fund."

Chapter 55 Section 3 Laws 2010

Section 3. Section 51-1-19 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 9, as amended) is amended to read:

"51-1-19. UNEMPLOYMENT COMPENSATION FUND.--

A. There is hereby established as a special fund, separate and apart from all public money, or funds of this state, an "unemployment compensation fund", which shall be administered by the department exclusively for the purposes of this section. The fund shall consist of:

(1) all contributions collected and payments in lieu of contributions collected or due pursuant to the Unemployment Compensation Law;

(2) interest earned upon any money in the fund;

(3) any property or securities acquired through the use of money belonging to the fund;

(4) all earnings of such property or securities;

(5) all money received from the federal unemployment account in the unemployment trust fund in accordance with Title 12 of the Social Security Act, as amended;

(6) all money credited to this state's account in the unemployment trust fund pursuant to Section 903 of the Social Security Act, as amended;

(7) all money received or due from the federal government as reimbursements pursuant to Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(8) all money received for the fund from any other source. All money in the fund shall be mingled and undivided.

B. The state treasurer shall be the treasurer and custodian of the fund and shall administer the fund in accordance with the directions of the department and shall issue checks upon it in accordance with such regulations as the secretary may prescribe. The state treasurer shall maintain, within the fund, three separate accounts:

(1) a clearing account;

(2) an unemployment trust fund account; and

(3) a benefit account.

C. All money payable to the fund upon receipt thereof by the department shall be forwarded to the treasurer, who shall immediately deposit it in the clearing account. Refunds payable pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978 shall be paid from the clearing account or the benefit account upon checks issued by the treasurer under the direction of the department. After clearance thereof, all money in the clearing account, except as herein otherwise provided, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to Section 904 of the act of congress known as the Social Security Act, as amended (42 U.S.C. Section 1104), any provisions of law in this state relating to the deposits, administration, release or disbursements of money in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the secretary, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or

premium shall be paid out of the fund. Money in the clearing and benefit accounts shall not be commingled with other state funds but shall be maintained in separate accounts on the books of the depository.

D. All of the money not deposited in the treasury of the United States shall be subject to the general laws applicable to the deposit of public money in the state; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of this state.

E. The state treasurer shall be liable on the state treasurer's official bond for the faithful performance of duties in connection with the unemployment compensation fund provided for under this section. The liability on the official bond of the state treasurer shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to the liability of any separate bond existent on the effective date of this provision or that may be given in the future. All sums recovered for losses sustained by the fund shall be deposited therein.

F. All money in the clearing account established under this section is hereby appropriated for the purpose of making refunds pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978, and all money in the clearing account not needed for the purpose of making the refunds shall be immediately paid to the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, and the money in the unemployment trust fund is hereby appropriated for the purposes of this section.

G. Money shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and for the payment of refunds pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978 in accordance with regulations prescribed by the secretary, except that money credited to this state's account pursuant to Section 903 of the Social Security Act, as amended, shall be used exclusively as provided in Subsection H of this section. The secretary shall, from time to time, requisition from the unemployment trust fund such amounts not exceeding the amounts standing to this state's account therein, as the secretary deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof, the treasurer shall deposit such money in the benefit account and shall issue checks for the payment of benefits solely from such benefit account. Expenditures of such money in the benefit account and refunds from the benefit account or the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All money shall be withdrawn from the fund only upon a warrant issued by the department or its duly authorized agent upon the treasurer, and the treasurer upon receipt of such warrants shall issue a check against the fund in accordance with the warrant of the secretary. Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for, the payment of benefits and refunds during succeeding periods, or in the

discretion of the secretary, shall be redeposited with the secretary of the treasury of the United States, to the credit of this state's account in the unemployment trust fund, as provided in Subsection C of this section. All money in the benefit account provided for hereinabove is hereby appropriated for the payment of benefits and refunds as provided herein.

H. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to Section 903 of the Social Security Act may be requisitioned from this state's account or used only for:

(1) the payment of benefits pursuant to Subsection G of this section; and

(2) the payment of expenses incurred for the administration of the Unemployment Compensation Law and the federal Wagner-Peyser Act; provided that any money requisitioned and used for the payment of expenses incurred for the administration of the Unemployment Compensation Law and the federal Wagner-Peyser Act must be authorized by the enactment of a specific appropriation by the legislature that:

(a) specifies the purpose for which such money is appropriated and the amounts appropriated therefor;

(b) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, except for amounts distributed to the state of New Mexico on March 13, 2002 pursuant to Section 209 of the federal Temporary Extended Unemployment Compensation Act of 2002;

(c) limits the amount that may be obligated to an amount that does not exceed the amount by which the aggregate of the amounts credited to the account of this state pursuant to Section 903 of the Social Security Act exceeds the aggregate of the amounts used by the state pursuant to this subsection and charged against the amounts transferred to the account of this state; and

(d) notwithstanding the provisions of Paragraph (1) of this subsection, money credited with respect to federal fiscal years 1999, 2000 and 2001 shall be used only for the administration of the Unemployment Compensation Law.

I. Amounts credited to this state's account in the unemployment trust fund under Section 903 of the Social Security Act that are obligated for administration shall be charged against transferred amounts at the exact time the obligation is entered into. The appropriation, obligation and expenditure or other disposition of money appropriated under Subsection H of this section shall be accounted for in accordance with standards established by the United States secretary of labor.

J. Money appropriated under Subsection H of this section for payment of expenses of administration shall be requisitioned as needed for payment of the obligations incurred under such appropriations and, upon requisition, shall be deposited in the unemployment compensation administration fund but, until expended, shall remain a part of the unemployment compensation fund for use only in accordance with the conditions specified in Subsection H of this section, notwithstanding any provision of Section 51-1-34 NMSA 1978. Any money so deposited that will not be expended shall be returned promptly to the account of the state in the unemployment trust fund.

K. The provisions of Subsections A through J of this section to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by the state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all money, properties or securities therein belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit and release such money, properties or securities in a manner approved by the secretary, in accordance with the provisions of this section; provided that such money shall be invested in the following readily marketable classes of securities; bonds or other interest-bearing obligations of the United States and of the state; and provided further that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the secretary."

Chapter 55 Section 4 Laws 2010

Section 4. Section 51-1-42 NMSA 1978 (being Laws 2003, Chapter 47, Section 12, as amended) is amended to read:

"51-1-42. DEFINITIONS.--As used in the Unemployment Compensation Law:

A. "base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that "base period" means for benefit years beginning on or after January 1, 2005 for an individual who does not have sufficient wages in the base period as defined to qualify for benefits pursuant to Section 51-1-5 NMSA 1978, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if that period qualifies the individual for benefits pursuant to Section 51-1-5 NMSA 1978; provided that:

(1) wages that fall within the base period of claims established pursuant to this subsection are not available for reuse in qualifying for a subsequent benefit year; and

(2) in the case of a combined-wage claim pursuant to the arrangement approved by the federal secretary of labor, the base period is that base period applicable under the unemployment compensation law of the paying state;

B. "benefits" means the cash unemployment compensation payments payable to an eligible individual pursuant to Section 51-1-4 NMSA 1978 with respect to the individual's weeks of unemployment;

C. "contributions" means the money payments required by Section 51-1-9 NMSA 1978 to be made into the fund by an employer on account of having individuals performing services for the employer;

D. "employing unit" means any individual or type of organization, including any partnership, association, cooperative, trust, estate, joint-stock company, agricultural enterprise, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, household, fraternity or club, the legal representative of a deceased person or any state or local government entity to the extent required by law to be covered as an employer, that has in its employ one or more individuals performing services for it within this state. An individual performing services for an employing unit that maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of the Unemployment Compensation Law. An individual performing services for a contractor, subcontractor or agent that is performing work or services for an employing unit, as described in this subsection, that are within the scope of the employing unit's usual trade, occupation, profession or business, shall be deemed to be in the employ of the employing unit for all purposes of the Unemployment Compensation Law unless the contractor, subcontractor or agent is itself an employer within the provisions of Subsection E of this section;

E. "employer" includes:

(1) an employing unit that:

(a) unless otherwise provided in this section, paid for service in employment as defined in Subsection F of this section wages of four hundred fifty dollars (\$450) or more in any calendar quarter in either the current or preceding calendar year or had in employment, as defined in Subsection F of this section, for some portion of a day in each of twenty different calendar weeks during either the current or the preceding calendar year, and irrespective of whether the same individual was in employment in each such day, at least one individual;

(b) for the purposes of Subparagraph (a) of this paragraph, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1, another such week; and

(c) for purposes of defining an "employer" under Subparagraph (a) of this paragraph, the wages or remuneration paid to individuals performing services in employment in agricultural labor or domestic services as provided in Paragraphs (6) and (7) of Subsection F of this section shall not be taken into account; except that any employing unit determined to be an employer of agricultural labor under Paragraph (6) of Subsection F of this section shall be an employer under Subparagraph (a) of this paragraph so long as the employing unit is paying wages or remuneration for services other than agricultural services;

(2) any individual or type of organization that acquired the trade or business or substantially all of the assets thereof, of an employing unit that at the time of the acquisition was an employer subject to the Unemployment Compensation Law; provided that where such an acquisition takes place, the secretary may postpone activating the separate account pursuant to Subsection A of Section 51-1-11 NMSA 1978 until such time as the successor employer has employment as defined in Subsection F of this section;

(3) an employing unit that acquired all or part of the organization, trade, business or assets of another employing unit and that, if treated as a single unit with the other employing unit or part thereof, would be an employer under Paragraph (1) of this subsection;

(4) an employing unit not an employer by reason of any other paragraph of this subsection:

(a) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(b) that, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to that act, to be an "employer" under the Unemployment Compensation Law;

(5) an employing unit that, having become an employer under Paragraph (1), (2), (3) or (4) of this subsection, has not, under Section 51-1-18 NMSA 1978, ceased to be an employer subject to the Unemployment Compensation Law;

(6) for the effective period of its election pursuant to Section 51-1-18 NMSA 1978, any other employing unit that has elected to become fully subject to the Unemployment Compensation Law;

(7) an employing unit for which any services performed in its employ are deemed to be performed in this state pursuant to an election under an arrangement entered into in accordance with Subsection A of Section 51-1-50 NMSA 1978; and

(8) an Indian tribe as defined in 26 USCA Section 3306(u) for which service in employment is performed;

F. "employment":

(1) means any service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied;

(2) means an individual's entire service, performed within or both within and without this state if:

(a) the service is primarily localized in this state with services performed outside the state being only incidental thereto; or

(b) the service is not localized in any state but some of the service is performed in this state and: 1) the base of operations or, if there is no base of operations, the place from which such service is directed or controlled, is in this state; or 2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(3) means services performed within this state but not covered under Paragraph (2) of this subsection if contributions or payments in lieu of contributions are not required and paid with respect to such services under an unemployment compensation law of any other state, the federal government or Canada;

(4) means services covered by an election pursuant to Section 51-1-18 NMSA 1978 and services covered by an election duly approved by the secretary in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 shall be deemed to be employment during the effective period of the election;

(5) means services performed by an individual for an employer for wages or other remuneration unless and until it is established by a preponderance of evidence that:

(a) the individual has been and will continue to be free from control or direction over the performance of the services both under the individual's contract of service and in fact;

(b) the service is either outside the usual course of business for which the service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of service;

(6) means service performed after December 31, 1977 by an individual in agricultural labor as defined in Subsection Q of this section if:

(a) the service is performed for an employing unit that: 1) paid remuneration in cash of twenty thousand dollars (\$20,000) or more to individuals in that employment during any calendar quarter in either the current or the preceding calendar year; or 2) employed in agricultural labor ten or more individuals for some portion of a day in each of twenty different calendar weeks in either the current or preceding calendar year, whether or not the weeks were consecutive, and regardless of whether the individuals were employed at the same time;

(b) the service is not performed before January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214(c) and 101(15)(H) of the federal Immigration and Nationality Act; and

(c) for purposes of this paragraph, an individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for a farm operator or other person shall be treated as an employee of the crew leader: 1) if the crew leader meets the requirements of a crew leader as defined in Subsection L of this section; or 2) substantially all the members of the crew operate or maintain mechanized agricultural equipment that is provided by the crew leader; and 3) the individuals performing the services are not, by written agreement or in fact, within the meaning of Paragraph (5) of this subsection, performing services in employment for the farm operator or other person;

(7) means service performed after December 31, 1977 by an individual in domestic service in a private home, local college club or local chapter of a college fraternity or sorority for a person or organization that paid cash remuneration of one thousand dollars (\$1,000) in any calendar quarter in the current or preceding calendar year to individuals performing such services;

(8) means service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

(a) the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act; and

(b) the organization meets the requirements of "employer" as provided in Subparagraph (a) of Paragraph (1) of Subsection E of this section;

(9) means service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, after December 31, 1971 in the employ of an American employer, other than service that is deemed "employment" under the provisions of Paragraph (2) of this subsection or the parallel provisions of another state's law, if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but: 1) the employer is an individual who is a resident of this state; 2) the employer is a corporation organized under the laws of this state; or 3) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) none of the criteria of Subparagraphs (a) and (b) of this paragraph are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"American employer" for the purposes of this paragraph means a person who is: 1) an individual who is a resident of the United States; 2) a partnership if two-thirds or more of the partners are residents of the United States; 3) a trust if all of the trustees are residents of the United States; or 4) a corporation organized under the laws of the United States or of any state. For the purposes of this paragraph, "United States" includes the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(10) means, notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law;

(11) means service performed in the employ of an Indian tribe if:

(a) the service is excluded from "employment" as defined in 26 USCA Section 3306(c) solely by reason of 26 USCA Section 3306(c)(7); and

(b) the service is not otherwise excluded from employment pursuant to the Unemployment Compensation Law;

(12) does not include:

(a) service performed in the employ of: 1) a church or convention or association of churches; or 2) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of such ministry or by a member of a religious order in the exercise of duties required by such order;

(c) service performed by an individual in the employ of the individual's son, daughter or spouse, and service performed by a child under the age of majority in the employ of the child's father or mother;

(d) service performed in the employ of the United States government or an instrumentality of the United States immune under the constitution of the United States from the contributions imposed by the Unemployment Compensation Law except that to the extent that the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of the Unemployment Compensation Law shall be applicable to such instrumentalities, and to service performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under Section 3304 of the federal Internal Revenue Code of 1986, 26 U.S.C. Section 3304, the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided in Subsection D of Section 51-1-36 NMSA 1978 with respect to contributions erroneously collected;

(e) service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving that rehabilitation or remunerative work;

(f) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(g) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(h) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the person is performed for remuneration solely by way of commission;

(i) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(j) service covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law, in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 during the effective period of the election;

(k) service performed, as part of an unemployment work-relief or work-training program assisted or financed in whole or part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving the work relief or work training;

(l) service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, if the service is an integral part of such program and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(m) service performed in the employ of a hospital, if the service is performed by a patient of the hospital, or services performed by an inmate of a custodial or penal institution for any employer;

(n) service performed by real estate salespersons for others when the services are performed for remuneration solely by way of commission;

(o) service performed in the employ of a school, college or university if the service is performed by a student who is enrolled and is regularly attending classes at the school, college or university;

(p) service performed by an individual for a fixed or contract fee officiating at a sporting event that is conducted by or under the auspices of a nonprofit or governmental entity if that person is not otherwise an employee of the entity conducting the sporting event;

(q) service performed for a private, for-profit person or entity by an individual as a product demonstrator or product merchandiser if the service is performed pursuant to a written contract between that individual and a person or entity whose principal business is obtaining the services of product demonstrators and product merchandisers for third parties, for demonstration and merchandising purposes and the individual: 1) is compensated for each job or the compensation is based on factors related to the work performed; 2) provides the equipment used to perform the service, unless special equipment is required and provided by the manufacturer through an agency; 3) is responsible for completion of a specific job and for any failure to complete the job; 4) pays all expenses, and the opportunity for profit or loss rests solely with the individual; and 5) is responsible for operating costs, fuel, repairs and motor vehicle insurance. For the purpose of this subparagraph, "product demonstrator" means an individual who, on a temporary, part-time basis, demonstrates or gives away samples of a food or other product as part of an advertising or sales promotion for the product and who is not otherwise employed directly by the manufacturer, distributor or retailer, and "product merchandiser" means an individual who, on a temporary, part-time basis builds or resets a product display and who is not otherwise directly employed by the manufacturer, distributor or retailer; or

(r) service performed for a private, for-profit person or entity by an individual as a landman if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual. For the purposes of this subparagraph, "landman" means a land professional who has been engaged primarily in: 1) negotiating for the acquisition or divestiture of mineral rights; 2) negotiating business agreements that provide for the exploration for or development of minerals; 3) determining ownership of minerals through the research of public and private records; and 4) reviewing the status of title, curing title defects and otherwise reducing title risk associated with ownership of minerals; managing rights or obligations derived from ownership of interests and minerals; or utilizing or pooling of interest in minerals; and

(13) for the purposes of this subsection, if the services performed during one-half or more of any pay period by an individual for the person employing the individual constitute employment, all the services of the individual for the period shall be deemed to be employment, but, if the services performed during more than one-half of any such pay period by an individual for the person employing the individual do not constitute employment, then none of the services of the individual for the period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing the individual.

This paragraph shall not be applicable with respect to services performed in a pay period by an individual for the person employing the individual where any of such service is excepted by Subparagraph (f) of Paragraph (12) of this subsection;

G. "employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices;

H. "fund" means the unemployment compensation fund established by the Unemployment Compensation Law to which all contributions and payments in lieu of contributions required under the Unemployment Compensation Law and from which all benefits provided under the Unemployment Compensation Law shall be paid;

I. "unemployment" means, with respect to an individual, any week during which the individual performs no services and with respect to which no wages are payable to the individual and during which the individual is not engaged in self-employment or receives an award of back pay for loss of employment. The secretary shall prescribe by rule what constitutes part-time and intermittent employment, partial employment and the conditions under which individuals engaged in such employment are eligible for partial unemployment benefits, but no individual who is otherwise eligible shall be deemed ineligible for benefits solely for the reason that the individual seeks, applies for or accepts only part-time work, instead of full-time work, if the part-time work is for at least twenty hours per week;

J. "state", when used in reference to any state other than New Mexico, includes, in addition to the states of the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

K. "unemployment compensation administration fund" means the fund established by Subsection A of Section 51-1-34 NMSA 1978 from which administrative expenses under the Unemployment Compensation Law shall be paid. "Employment security department fund" means the fund established by Subsection B of Section 51-1-34 NMSA 1978 from which certain administrative expenses under the Unemployment Compensation Law shall be paid;

L. "crew leader" means a person who:

(1) holds a valid certificate of registration as a crew leader or farm labor contractor under the federal Migrant and Seasonal Agricultural Worker Protection Act;

(2) furnishes individuals to perform services in agricultural labor for any other person;

(3) pays, either on the crew leader's own behalf or on behalf of such other person, the individuals so furnished by the crew leader for service in agricultural labor; and

(4) has not entered into a written agreement with the other person for whom the crew leader furnishes individuals in agricultural labor that the individuals will be the employees of the other person;

M. "week" means such period of seven consecutive days, as the secretary may by rule prescribe. The secretary may by rule prescribe that a week shall be deemed to be "in", "within" or "during" the benefit year that includes the greater part of such week;

N. "calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31;

O. "insured work" means services performed for employers who are covered under the Unemployment Compensation Law;

P. "benefit year" with respect to an individual means the one-year period beginning with the first day of the first week of unemployment with respect to which the individual first files a claim for benefits in accordance with Subsection A of Section 51-1-8 NMSA 1978 and thereafter the one-year period beginning with the first day of the first week of unemployment with respect to which the individual next files such a claim for benefits after the termination of the individual's last preceding benefit year; provided that at the time of filing such a claim the individual has been paid the wage required under Paragraph (5) of Subsection A of Section 51-1-5 NMSA 1978;

Q. "agricultural labor" includes all services performed:

(1) on a farm, in the employ of a person, in connection with cultivating the soil or in connection with raising or harvesting an agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation or maintenance of the farm and its tools and equipment, if the major part of the service is performed on a farm;

(3) in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes when such ditches, canals, reservoirs or waterways are owned and operated by the farmers using the water stored or carried therein; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivery to storage or to market or to a carrier for

transportation to market any agricultural or horticultural commodity but only if the service is performed as an incident to ordinary farming operations. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, greenhouses, ranges and orchards;

R. "payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to the provisions of Subsection B of Section 51-1-13 NMSA 1978 or Subsection E of Section 51-1-59 NMSA 1978;

S. "department" means the workforce solutions department; and

T. "wages" means all remuneration for services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be established and determined in accordance with rules prescribed by the secretary; provided that the term "wages" shall not include:

(1) subsequent to December 31, 1977, that part of the remuneration in excess of the base wage as determined by the secretary for each calendar year. The base wage upon which contribution shall be paid during any calendar year shall be sixty percent of the state's average annual earnings computed by the division by dividing total wages reported to the division by contributing employers for the second preceding calendar year before the calendar year the computed base wage becomes effective by the average annual employment reported by contributing employers for the same period rounded to the next higher multiple of one hundred dollars (\$100); provided that the base wage so computed for any calendar year shall not be less than seven thousand dollars (\$7,000). Wages paid by an employer to an individual in the employer's employ during any calendar year in excess of the base wage in effect for that calendar year shall be reported to the department but shall be exempt from the payment of contributions unless such wages paid in excess of the base wage become subject to tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(2) the amount of any payment with respect to services performed after June 30, 1941 to or on behalf of an individual in the employ of an employing unit under a plan or system established by the employing unit that makes provision for individuals in its employ generally or for a class or classes of individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any payment, on account of:

(a) retirement if the payments are made by an employer to or on behalf of an employee under a simplified employee pension plan that provides for payments by an employer in addition to the salary or other remuneration normally payable to the employee or class of employees and does not include any payments that represent deferred compensation or other reduction of an employee's normal taxable wages or remuneration or any payments made to a third party on behalf of an employee as part of an agreement of deferred remuneration;

(b) sickness or accident disability if the payments are received under a workers' compensation or occupational disease disablement law;

(c) medical and hospitalization expenses in connection with sickness or accident disability; or

(d) death; provided the individual in its employ has not the option to receive, instead of provision for the death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums or contributions to premiums paid by the individual's employing unit and has not the right under the provisions of the plan or system or policy of insurance providing for the death benefit to assign the benefit, or to receive a cash consideration in lieu of the benefit either upon the individual's withdrawal from the plan or system providing for the benefit or upon termination of the plan or system or policy of insurance or of the individual's service with the employing unit;

(3) remuneration for agricultural labor paid in any medium other than cash;

(4) a payment made to, or on behalf of, an employee or an employee's beneficiary under a cafeteria plan within the meaning of Section 125 of the federal Internal Revenue Code of 1986;

(5) a payment made, or benefit furnished to or for the benefit of an employee if at the time of the payment or such furnishing it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under Section 129 of the federal Internal Revenue Code of 1986;

(6) a payment made by an employer to a survivor or the estate of a former employee after the calendar year in which the employee died;

(7) a payment made to, or on behalf of, an employee or the employee's beneficiary under an arrangement to which Section 408(p) of the federal Internal Revenue Code of 1986 applies, other than any elective contributions under Paragraph (2)(A)(i) of that section;

(8) a payment made to or for the benefit of an employee if at the time of the payment it is reasonable to believe that the employee will be able to exclude

the payment from income under Section 106 of the federal Internal Revenue Code of 1986; or

(9) the value of any meals or lodging furnished by or on behalf of the employer if at the time the benefit is provided it is reasonable to believe that the employee will be able to exclude such items from income under Section 119 of the federal Internal Revenue Code of 1986."

Chapter 55 Section 5 Laws 2010

Section 5. TEMPORARY PROVISION--TRANSFER OF BALANCES IN THE STATE UNEMPLOYMENT TRUST FUND.--On the effective date of this act, the balance of the state unemployment trust fund, including any accrued earnings credited to the fund, is transferred to the unemployment compensation fund. On or after the effective date of this act, the workforce solutions department shall deposit all contributions received under Section 51-1-11 NMSA 1978 in the unemployment compensation fund notwithstanding the requirement of that section, as it existed prior to the effective date of this act, to deposit money in the state unemployment trust fund.

Chapter 55 Section 6 Laws 2010

Section 6. REPEAL.--Section 51-1-19.1 NMSA 1978 (being Laws 2007, Chapter 137, Section 4) is repealed.

Chapter 55 Section 7 Laws 2010

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

House Bill 144, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 56

AN ACT

RELATING TO PUBLIC FINANCE; AMENDING THE QUALIFIED SCHOOL CONSTRUCTION BONDS ACT; DECLARING AN EMERGENCY.

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

Chapter 56 Section 1 Laws 2010

Section 1. Section 22-18C-1 NMSA 1978 (being Laws 2009, Chapter 154, Section 1) is amended to read:

"22-18C-1. SHORT TITLE.--Chapter 22, Article 18C NMSA 1978 may be cited as the "Qualified School Construction Bonds Act"."

Chapter 56 Section 2 Laws 2010

Section 2. Section 22-18C-2 NMSA 1978 (being Laws 2009, Chapter 154, Section 2) is amended to read:

"22-18C-2. DEFINITIONS.--As used in the Qualified School Construction Bonds Act:

A. "allocation" means New Mexico's allocation of the national qualified school construction bond limitation pursuant to Section 1521 of the federal American Recovery and Reinvestment Act of 2009;

B. "council" means the public school capital outlay council;

C. "qualified school construction bond" means a bond issued by the state or a school district that meets all of the requirements of Section 22-18C-3 NMSA 1978 and the requirements for a qualified school construction bond pursuant to Section 1521 of the federal American Recovery and Reinvestment Act of 2009; and

D. "qualifying school" means a public school, a New Mexico state educational institution providing education or training below the post-secondary level or a program within such a public school or educational institution and which school, institution or program meets the requirements of Section 1521 of the federal American Recovery and Reinvestment Act of 2009."

Chapter 56 Section 3 Laws 2010

Section 3. Section 22-18C-3 NMSA 1978 (being Laws 2009, Chapter 154, Section 3) is amended to read:

"22-18C-3. QUALIFIED SCHOOL CONSTRUCTION BONDS--DESIGNATION--TERMS--SALE.--

A. The state or a school district that has been authorized to issue bonds may designate all or any part of the bonds as qualified school construction bonds if:

(1) one hundred percent of the available project proceeds from the issuance of the bonds are to be used for:

(a) the construction, rehabilitation or repair of a qualifying school facility;

(b) the acquisition of land on which such a facility is to be constructed with part of the proceeds; or

(c) the acquisition of equipment to be used in the portion of the qualifying school facility that is being constructed, rehabilitated or repaired with the proceeds;

(2) the bonds are issued by the state or a school district within the jurisdiction of which the qualifying school is located; and

(3) the issuer is:

(a) a school district to which a direct allocation is made pursuant to Section 1521 of the federal American Recovery and Reinvestment Act of 2009 and the amount of the bonds designated as qualified school construction bonds does not exceed the direct allocation; or

(b) the state or a school district that has received an allocation distribution from the council pursuant to Section 22-18C-4 NMSA 1978.

B. Notwithstanding any law requiring bonds to be sold at a public sale or at not less than par, qualified school construction bonds may be sold at a public or private sale to the state, the New Mexico finance authority or any other purchaser and may be sold at par, or at less than or greater than par.

C. In addition to any other requirement of law applicable to the term of the bonds, qualified school construction bonds shall not be issued for a term longer than the term fixed pursuant to the Internal Revenue Code of 1986, as amended, and applicable state law."

Chapter 56 Section 4 Laws 2010

Section 4. Section 22-18C-4 NMSA 1978 (being Laws 2009, Chapter 154, Section 4) is amended to read:

"22-18C-4. ALLOCATION.--

A. The aggregate face amount of all qualified school construction bonds issued in a calendar year shall not exceed the available allocation, including any carry-forward allocation, for that year.

B. Except for the portion of the allocation required by Section 1521 of the federal American Recovery and Reinvestment Act of 2009 to be made to particular

school districts, the council is designated the state education agency responsible for ensuring compliance with the limitation of Subsection A of this section.

C. If the state or a school district that has been authorized to issue bonds, or is in the process of obtaining authorization to issue bonds, desires to designate all or any portion of the bonds as qualified school construction bonds, it shall submit an application to the council for an allocation distribution. For bonds to be issued in calendar year 2010, the application shall be submitted no later than the last day of the third month following the month in which this 2010 act is first effective; and, for bonds to be issued in any subsequent year in which an allocation exists, the application shall be submitted no later than March 1 of that year. The application shall include evidence that the requirements of Paragraphs (1) and (2) of Subsection A of Section 22-18C-3 NMSA 1978 have been satisfied; provided, however, that any school district to which a direct allocation is made pursuant to Section 1521 of the federal American Recovery and Reinvestment Act of 2009 shall be exempt from the application requirement to the extent that the amount of qualified school construction bonds to be issued by that district does not exceed the direct allocation.

D. If, for a calendar year, the allocation for that year exceeds the amount of qualified school construction bonds designated and issued in that year, the excess shall revert to the council and shall be carried forward and included in the allocation for the subsequent year as follows:

(1) any excess attributable to the portion of the allocation required by Section 1521 of the federal American Recovery and Reinvestment Act of 2009 to be made to a particular school district shall be allocated to that school district in the subsequent year; and

(2) any excess not allocated pursuant to Paragraph (1) of this subsection shall revert to the council and be distributed pursuant to Subsection C of this section in the subsequent year.

E. In the event that the face amount of all proposed qualified school construction bonds for a calendar year exceeds the allocation remaining after deducting the direct allocations made to particular school districts pursuant to Section 1521 of the federal American Recovery and Reinvestment Act of 2009, the council shall, after considering the factors listed in Subsection F of this section, decide how the remaining allocation shall be distributed to applicants that have timely filed valid applications for that year; provided, however, that the distribution shall not reduce the direct allocation to any particular school district pursuant to Section 1521 of the federal American Recovery and Reinvestment Act of 2009.

F. In deciding how the remaining allocation shall be distributed to applicants pursuant to Subsection E of this section, the council shall consider:

(1) the dates anticipated for the initial expenditure of bond proceeds and for completion of the project;

(2) the percent of the bond proceeds that are likely to be expended within three years of the date of the issuance of the bonds;

(3) whether the bond proceeds, together with all other money available for the project, are sufficient to complete the project; and

(4) the priority ranking of the project, as determined by applying the deviation from the statewide adequacy standards pursuant to Section 22-24-5 NMSA 1978."

Chapter 56 Section 5 Laws 2010

Section 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HEC/House Bill 145, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 57

AN ACT

RELATING TO TRANSPORTATION; AMENDING SECTION 15-8-3 NMSA 1978 (BEING LAWS 1994, CHAPTER 119, SECTION 3, AS AMENDED) TO CLARIFY APPLICABILITY.

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

Chapter 57 Section 1 Laws 2010

Section 1. Section 15-8-3 NMSA 1978 (being Laws 1994, Chapter 119, Section 3, as amended) is amended to read:

"15-8-3. DEFINITIONS.--As used in the Transportation Services Act:

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

B. "division" means the transportation services division of the general services department;

C. "secretary" means the secretary of general services;

D. "state agency" means a state department, agency, board or commission but does not include the legislative and judicial branches, public schools and institutions of higher education; and

E. "state vehicle" means an automobile, van, sport-utility truck, pickup truck or other vehicle with a declared gross vehicle weight of less than ten thousand pounds used by a state agency to transport passengers or property."

House Bill 204

Approved March 8, 2010

LAWS 2010, CHAPTER 58

AN ACT

RELATING TO PROPERTY; ENACTING THE MORTGAGE FORECLOSURE CONSULTANT FRAUD PREVENTION ACT; IMPOSING PENALTIES.

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

Chapter 58 Section 1 Laws 2010

Section 1. SHORT TITLE.--This act may be cited as the "Mortgage Foreclosure Consultant Fraud Prevention Act".

Chapter 58 Section 2 Laws 2010

Section 2. DEFINITIONS.--As used in the Mortgage Foreclosure Consultant Fraud Prevention Act:

A. "compensation" means monetary payment, remuneration or other benefits received, including monetary donations made in conjunction with the performance of services;

B. "foreclosure consultant":

(1) means a person who, directly or indirectly, makes a solicitation or offer to an owner to perform services for compensation or who, for compensation, performs a service that the person represents will:

- (a) stop or postpone a foreclosure sale;
 - (b) obtain any forbearance from a beneficiary or mortgagee;
 - (c) assist the owner to exercise the right to reinstatement;
 - (d) obtain an extension of the period within which the owner may reinstate the owner's obligation;
 - (e) obtain a waiver of an acceleration clause contained in a promissory note, deed of trust or contract secured by a mortgage on a residence in foreclosure or contained in the mortgage;
 - (f) assist an owner in foreclosure or loan default to obtain a loan or advance of funds;
 - (g) avoid or ameliorate the impairment of an owner's credit resulting from the recording of a notice of default or from a foreclosure sale; or
 - (h) otherwise save an owner's residence from foreclosure;
- and

(2) does not include:

- (a) a person licensed to practice law in this state when the person renders service in the course of the person's practice as an attorney;
- (b) a person licensed as a real estate broker or salesperson in this state when the person engages in acts requiring real estate licensure, unless the person is offering services designed to, or purportedly designed to, enable the owner to retain possession of the residence in foreclosure;
- (c) a person licensed as an accountant in this state when the person is acting in any capacity for which the person is licensed as an accountant;
- (d) a person acting under the express authority or written approval of the United States department of housing and urban development or other department or agency of the United States or this state to provide services;
- (e) a person who holds or is owed an obligation secured by a lien on any residence in foreclosure when the person performs services in connection with the obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;
- (f) a person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations,

industrial loan and thrift companies, regulated lenders, credit unions or insurance companies, or a mortgagee that is a United States department of housing and urban development-approved mortgagee or any subsidiary or affiliate of these persons, or any agent or employee of these persons while engaged in the business of these persons;

(g) a person licensed as a residential mortgage originator or servicer pursuant to the New Mexico Mortgage Loan Originator Licensing Act when acting under the authority of that license;

(h) a nonprofit agency or organization registered pursuant to New Mexico law that offers counseling or advice to an owner of a home in foreclosure or loan default if the nonprofit agency or organization does not contract for services with for-profit lenders or foreclosure purchasers; or

(i) a foreclosure purchaser, including a person who purchases a home in foreclosure at, or subsequent to, a judicial sale of foreclosure property;

C. "foreclosure reconveyance" means a transaction involving:

(1) the transfer of title to real property by a foreclosed homeowner during a foreclosure proceeding on that homeowner's home, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the foreclosure process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder;

(2) the subsequent conveyance, or offer or promise of a subsequent conveyance, of an interest back to the foreclosed homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess either the residence in foreclosure or any other real property, which interest includes, but is not limited to, an interest in a contract for deed, purchase agreement, option to purchase or lease; or

(3) the authorization, solicitation or offer of a proposal to refinance the real estate during the foreclosure process contingent on participation in any life, term life or periodic insurance arrangement with any third party not providing private mortgage insurance;

D. "owner" means the record owner of a residence in foreclosure at the time a foreclosure notice of pendency was recorded or a summons and complaint for foreclosure was served;

E. "person" means an individual, a partnership, a corporation, a limited liability company, an association or other group, however organized;

F. "residence in foreclosure" means residential real property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residence, where there is a delinquency or default on any loan payment or debt secured by or attached to the residential real property, including contract for deed payments; and

G. "service" means and includes, but is not limited to, any of the following:

(1) debt, budget or financial counseling of any type;

(2) receiving money for the purpose of distributing it to creditors in payment or partial payment of an obligation secured by a lien on a residence in foreclosure;

(3) contacting creditors on behalf of an owner;

(4) arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure the owner's default and reinstate the owner's obligation;

(5) arranging or attempting to arrange for a delay or postponement of the time of sale of the residence in foreclosure;

(6) advising the filing of any document or assisting in any manner in the preparation of any document for filing with a bankruptcy court; or

(7) giving advice, explanation or instruction to an owner, which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of that obligation, or the postponement or avoidance of a sale of a residence in foreclosure, pursuant to a power of sale contained in a mortgage.

Chapter 58 Section 3 Laws 2010

Section 3. FORECLOSURE CONSULTANT CONTRACT--REQUIREMENTS.--

A. A foreclosure consulting contract shall:

(1) be provided to the owner for review at least twenty-four hours before being signed by the owner;

(2) be printed in at least fourteen-point type and written in the same language that was used by the owner in discussions with the foreclosure consultant to describe the consultant's services or to negotiate the contract;

(3) fully disclose the nature and extent of the foreclosure consulting services to be provided, including any foreclosure reconveyance that may be involved, and the total amount and terms of any compensation to be received by the foreclosure consultant or anyone working in association with the foreclosure consultant;

(4) disclose the names of any other corporations, businesses or entities on behalf of which the consultant does business or with which the consultant is affiliated or employed;

(5) separately itemize all costs, fees or expenses and the purpose of the costs, fees or expenses that are charged to the homeowner during the term of the contract;

(6) be dated and personally signed by the owner and the foreclosure consultant; and

(7) contain the following notice, which shall be printed in at least fourteen-point boldface type, completed with the name of the foreclosure consultant, and located in immediate proximity to the space reserved for the owner's signature:

"NOTICE REQUIRED BY NEW MEXICO LAW

..... (Name) or anyone working for him or her CANNOT ask you to sign or have you sign any lien, mortgage or deed as part of signing this agreement unless the terms of the transfer are specified in this document and you are given a separate explanation of the nature and extent of the transaction.

..... (Name) or anyone working for him or her CANNOT guarantee you that they will be able to refinance your home or arrange for you to keep your home. Continue making mortgage payments until a refinancing, if applicable, is approved.

If a transfer of the deed or title to your property is involved in any way, you may rescind the transfer any time within 3 days after the date you sign the deed or other document of sale or transfer. See the attached Notice of Rescission form for an explanation of this right. As part of any rescission, you must repay any money spent on your behalf as a result of this agreement within 60 days of receiving commercially reasonable documentation of the payments.

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY OR COUNSELOR BEFORE SIGNING."

B. A foreclosure consulting contract shall contain on the first page, in at least fourteen-point type:

(1) the name and address of the foreclosure consultant to which the notice of cancellation is to be mailed; and

(2) the date the owner signed the contract.

C. A foreclosure consulting contract shall be accompanied by a completed form in duplicate, captioned "NOTICE OF RESCISSION RIGHTS", which shall:

(1) be on a separate sheet of paper attached to the contract;

(2) be easily detachable; and

(3) contain the following statement printed in at least fifteen-point type:

"NOTICE OF RESCISSION RIGHTS

(Date of Contract)

You may cancel or rescind this contract, without any penalty, at any time until midnight of the third business day after the day on which you sign this contract. If you want to end this contract, mail or deliver a signed and dated copy of this Notice of Rescission, or any other written notice indicating your intent to rescind to (name of foreclosure consultant) at (address of foreclosure consultant, including facsimile and electronic mail).

As part of any rescission, you (the homeowner) must repay any money spent on your behalf as a result of this agreement within 60 days of receiving commercially reasonable documentation of the payments.

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY OR COUNSELOR BEFORE SIGNING.

RESCISSION OF CONTRACT FORM

TO: (name of foreclosure consultant)

(address of foreclosure consultant, including facsimile and electronic mail)

I hereby rescind this contract.

..... (Date)

..... (Homeowner's signature)".

D. The foreclosure consultant shall provide the owner with a signed and dated copy of the foreclosure consulting contract and the attached notice of rescission rights and rescission of contract form immediately upon execution of the contract.

E. The time during which the owner may rescind the foreclosure consulting contract does not begin to run until the foreclosure consultant has complied with this section and the owner has signed the contract.

Chapter 58 Section 4 Laws 2010

Section 4. RESCISSION OF FORECLOSURE CONSULTANT CONTRACT.--

A. In addition to any other right under law to rescind a contract, an owner may rescind a foreclosure consulting contract until midnight of the third business day after the day on which the owner signs a foreclosure consulting contract that complies with the Mortgage Foreclosure Consultant Fraud Prevention Act.

B. Cancellation of a foreclosure consulting contract occurs when an owner gives written notice of cancellation to the foreclosure consultant at the address specified in the contract.

C. Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

D. Notice of cancellation given by an owner need not take the particular form as provided with the contract and, however expressed, is effective if it indicates the intention of the owner not to be bound by the contract.

Chapter 58 Section 5 Laws 2010

Section 5. VIOLATIONS.--It is a violation of the Mortgage Foreclosure Consultant Fraud Prevention Act for a foreclosure consultant to:

A. claim, demand, charge, collect or receive any compensation until after the foreclosure consultant has fully performed every service the foreclosure consultant contracted to perform or represented the consultant would perform;

B. claim, demand, charge, collect or receive any fee, interest or any other compensation for any reason that exceeds five percent per annum of the amount of any loan that the foreclosure consultant may make to the owner. Such a loan may not be secured by the residence in foreclosure or any other real or personal property;

C. take a wage assignment, lien of any type on real or personal property or other security to secure the payment of compensation. Any such security is void and unenforceable;

D. receive any consideration from a third party in connection with services rendered to an owner;

E. acquire any interest, directly or indirectly, or by means of a subsidiary or affiliate in a residence in foreclosure from an owner with whom the foreclosure consultant has contracted;

F. take a power of attorney from an owner for any purpose, except to inspect documents as provided by law;

G. include a provision in a foreclosure consulting contract that:

(1) attempts or purports to waive an owner's rights under the Mortgage Foreclosure Consultant Fraud Prevention Act;

(2) requires an owner to consent to jurisdiction for litigation or choice of law in a state other than New Mexico;

(3) provides for venue in a county other than the county in which the residence in foreclosure is located; or

(4) imposes any costs or filing fees greater than the fees required to file an action in a district court; or

H. induce or attempt to induce an owner to enter a contract that does not comply in all respects with the Mortgage Foreclosure Consultant Fraud Prevention Act.

Chapter 58 Section 6 Laws 2010

Section 6. WAIVER NOT ALLOWED.--Any waiver by an owner of the provisions of the Mortgage Foreclosure Consultant Fraud Prevention Act is void and unenforceable as contrary to public policy. Any attempt by a foreclosure consultant to induce an owner to waive the owner's rights under the Mortgage Foreclosure Consultant Fraud Prevention Act is a violation of that act.

Chapter 58 Section 7 Laws 2010

Section 7. REMEDIES.--

A. A violation of the Mortgage Foreclosure Consultant Fraud Prevention Act constitutes an unfair trade practice pursuant to the Unfair Practices Act.

B. A prevailing plaintiff in a suit for violation of the Mortgage Foreclosure Consultant Fraud Prevention Act may recover actual damages, reasonable attorney fees and costs and appropriate equitable relief.

C. The rights and remedies provided in Subsection A of this section are cumulative to, and not a limitation of, any other rights and remedies provided by law.

Any action brought pursuant to this section must be commenced within four years from the date of the alleged violation.

D. In addition to any other damages, a court may award exemplary damages up to three times the compensation charged by the foreclosure consultant if the court finds that the foreclosure consultant violated a provision of Section 5 of the Mortgage Foreclosure Consultant Fraud Prevention Act and that the foreclosure consultant's conduct was willful or in bad faith.

E. Notwithstanding any other provision of this section, no action may be brought on the basis of a violation of the Mortgage Foreclosure Consultant Fraud Prevention Act, except by an owner against whom the violation was committed or by the attorney general.

Chapter 58 Section 8 Laws 2010

Section 8. PENALTY.--A person who commits a violation of the provisions of Section 5 of the Mortgage Foreclosure Consultant Fraud Prevention Act is guilty of a fourth degree felony and, upon conviction, shall be sentenced pursuant to Section 31-18-15 NMSA 1978. Each violation of the provisions of Section 5 of the Mortgage Foreclosure Consultant Fraud Prevention Act constitutes a distinct offense. The attorney general or the district attorney for the district in which the violation arose may prosecute any violation of Section 5 of the Mortgage Foreclosure Consultant Fraud Prevention Act. Prosecution or conviction for any violation described in Section 5 of the Mortgage Foreclosure Consultant Fraud Prevention Act does not bar prosecution or conviction for any other offenses. These penalties are cumulative to any other remedies or penalties provided by law.

Chapter 58 Section 9 Laws 2010

Section 9. SEVERABILITY.--If any provision of the Mortgage Foreclosure Consultant Fraud Prevention Act or the application of any of its provisions to any person or circumstance is held to be unconstitutional and void, the remainder of the Mortgage Foreclosure Consultant Fraud Prevention Act remains valid.

HJC/House Bill 205

Approved March 8, 2010

LAWS 2010, CHAPTER 59

AN ACT

RELATING TO SPECIAL EDUCATION; REQUIRING INTERVENTIONS FOR STUDENTS DISPLAYING CHARACTERISTICS OF DYSLEXIA.

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

Chapter 59 Section 1 Laws 2010

Section 1. Section 22-13-6 NMSA 1978 (being Laws 1972, Chapter 95, Section 2, as amended) is amended to read:

"22-13-6. SPECIAL EDUCATION--DEFINITIONS.--As used in the Public School Code:

A. "special education" means the provision of services additional to, supplementary to or different from those provided in the regular school program by a systematic modification and adaptation of instructional techniques, materials and equipment to meet the needs of exceptional children;

B. "exceptional children" means school-age persons whose abilities render regular services of the public school to be inconsistent with their educational needs;

C. "children with disabilities" means those children who are classified as developmentally disabled according to the Developmental Disabilities Act;

D. "gifted child" means a school-age person who is determined to be gifted pursuant to Section 22-13-6.1 NMSA 1978 and standards adopted by the department pursuant to that section. Nothing in this section shall preclude a school district or charter school from offering additional gifted programs for students who fail to meet the eligibility criteria; however, the state shall only provide state funds for department-approved gifted programs for those students who meet the established criteria;

E. "dyslexia" means a condition of neurological origin that is characterized by difficulty with accurate or fluent word recognition and by poor spelling and decoding abilities, which characteristics typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction and may result in problems in reading comprehension and reduced reading experience that may impede the growth of vocabulary and background knowledge;

F. "response to intervention" means a multitiered intervention model that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a framework for making educational programming and eligibility decisions; and

G. "student assistance team" means a school-based group whose purpose, based on procedures and guidelines established by the department, is to provide additional educational support to students who are experiencing difficulties that are preventing them from benefiting from general instruction."

Chapter 59 Section 2 Laws 2010

Section 2. A new section of Chapter 22, Article 13 NMSA 1978 is enacted to read:

"INTERVENTION FOR STUDENTS DISPLAYING CHARACTERISTICS OF DYSLEXIA.--

A. A student who, despite effective classroom instruction in general education as provided by department standards, demonstrates characteristics of dyslexia and is having difficulty learning to read, write, spell, understand spoken language or express thoughts clearly shall be referred to a student assistance team.

B. In accordance with department response to intervention procedures, guidelines and policies, each school district or charter school shall provide timely, appropriate, systematic, scientific, research-based interventions prescribed by the student assistance team, with progress monitoring to determine the student's response or lack of response, for a student in the secondary tier of response to intervention who meets the criteria in Subsection A of this section prior to referring the student for a special education evaluation.

C. A parent of a student referred to a student assistance team shall be informed of the parent's right to request an initial special education evaluation at any time during the school district's or charter school's implementation of the interventions prescribed by the student assistance team. If the school district or charter school agrees that the student may have a disability, the student assistance team shall refer the child for an evaluation. The student shall be evaluated within sixty days of receiving the parental consent for an initial evaluation. If the school district or charter school refuses the parent's request for an initial evaluation, the school district or charter school shall provide written notice of the refusal to the parent, including notice of the parent's right to challenge the school district's or charter school's decision as provided in state and federal law and rules.

D. The department shall provide lists of recommended teacher professional development materials and opportunities for teachers and administrators regarding research-based reading instruction for students at risk for reading failure and displaying the characteristics of dyslexia.

E. School districts and charter schools shall train school administrators and teachers who teach reading to implement appropriate research-based reading interventions prior to referring the student for a special education evaluation. School

districts and charter schools shall train special education teachers to provide appropriate specialized reading instruction for students who are identified with dyslexia as a specific learning disability and who are eligible for special education services.

F. The department shall provide technical assistance for special education diagnosticians and other special education professionals regarding the formal special education evaluation of students suspected of having a specific learning disability, such as dyslexia.

G. The department shall adopt rules, standards and guidelines necessary to implement this section."

HEC/House Bill 230

Approved March 8, 2010

LAWS 2010, CHAPTER 60

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL RETIREMENT ACT TO ALLOW THE DISCLOSURE OF RETIREMENT AND DISABILITY BENEFITS.

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

Chapter 60 Section 1 Laws 2010

Section 1. Section 22-11-55 NMSA 1978 (being Laws 2009, Chapter 240, Section 1 and Laws 2009, Chapter 248, Section 1) is amended to read:

"22-11-55. DISCLOSURE OF MEMBER OR RETIRED MEMBER INFORMATION--PENALTY.--

A. Other than names of members and local administrative units by which a member was employed; dates of employment, retirement and reported death; service credit; reported salary; retirement and disability benefits; and amounts of contributions made by members and local administrative units, neither the board nor its employees or contractors shall allow public inspection or disclosure of any information regarding a member or retired member to anyone except:

(1) the member, retired member or the spouse or authorized representative of the member or retired member;

(2) other persons specifically identified in a prior release and consent, in the form prescribed by the board, executed by the member, retired member, spouse or authorized representative; or

(3) the attorney general, appropriate law enforcement agencies, the state auditor or the public education department or higher education department, if the information provided relates to contributions, payments or management of money received by, or the financial controls or procedures of, a local administrative unit.

B. No person receiving information disclosed by a violation of Subsection A of this section shall disclose that information to any other person unless authorized by an applicable confidentiality agreement, board rule or state law.

C. Whoever knowingly violates a provision of Subsection A or B of this section is guilty of a petty misdemeanor and shall be sentenced in accordance with Section 31-19-1 NMSA 1978."

House Bill 231, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 61

AN ACT

RELATING TO PUBLIC FINANCE; EXTENDING THE PERIOD FOR WHICH CERTAIN UNEXPENDED APPROPRIATIONS SHALL BE CREDITED TO THE NEW MEXICO RECOVERY AND REINVESTMENT FUND; DECLARING AN EMERGENCY.

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

Chapter 61 Section 1 Laws 2010

Section 1. Section 6-4-2.5 NMSA 1978 (being Laws 2009, Chapter 126, Section 1) is amended to read:

"6-4-2.5. NEW MEXICO RECOVERY AND REINVESTMENT FUND.--

A. The legislature finds that:

(1) the state is not eligible for an increase to the federal medical assistance percentage provided in Subsection (b) or (c) of Section 5001 of the federal American Recovery and Reinvestment Act of 2009 if any amounts attributable, directly

or indirectly, to the increase are deposited or credited into any reserve or rainy day fund of the state;

(2) in order to ensure compliance with this requirement, it is desirable to set up a fund separate and apart from the state's general fund to capture unexpended fiscal year 2009, 2010 or 2011 general fund appropriations attributable to an increase to the federal medical assistance percentage provided in Subsection (b) or (c) of Section 5001 of the federal American Recovery and Reinvestment Act of 2009;

(3) the separate fund will also enable the state to clearly account to the federal government regarding earnings and expenditures on unexpended fiscal year 2009, 2010 or 2011 general fund appropriations attributable to an increase to the federal medical assistance percentage provided in Subsection (b) or (c) of Section 5001 of the federal American Recovery and Reinvestment Act of 2009; and

(4) in the period of time during which the fund will be available for expenditure, the fund will be used to stabilize the state's budget in the event of revenue shortfalls and to fund the state's share of the medicaid program, thereby preserving jobs and minimizing reductions in essential services, both of which are stated purposes of the federal American Recovery and Reinvestment Act of 2009.

B. The "New Mexico recovery and reinvestment fund" is created in the state treasury. The fund shall consist of money that is credited to the fund pursuant to Subsection C of this section, reversions to the fund of the unexpended balances of appropriations from the fund, appropriations made to the fund and investment income credited to the fund. Money in the fund shall not revert to any other state fund at the end of any fiscal year and shall not be expended for any purpose except as provided in this section. Income from investment of the fund shall be credited to the fund.

C. Notwithstanding the reversion provisions of general appropriation acts or other laws, at the end of fiscal year 2009, fiscal year 2010 and fiscal year 2011, the unexpended balance of a general fund appropriation shall be credited to the New Mexico recovery and reinvestment fund if the secretary of finance and administration, in consultation with the director of the legislative finance committee, determines that the unexpended balance is attributable to an increase in the federal medical assistance percentage provided in Subsection (b) or (c) of Section 5001 of the federal American Recovery and Reinvestment Act of 2009.

D. If revenue and transfers to the general fund at the end of fiscal year 2009, 2010 or 2011 are not sufficient to meet general fund appropriations, the governor, with state board of finance approval, may transfer to the general fund from the unappropriated balance of the New Mexico recovery and reinvestment fund an amount up to the amount of the insufficiency.

E. Except as provided in Subsection D of this section, the New Mexico recovery and reinvestment fund may be appropriated by the legislature solely for

medicaid expenses in fiscal year 2010, fiscal year 2011 and the first quarter of fiscal year 2012; provided that any balance of an appropriation from the fund not expended within the period provided in the appropriation shall revert to the fund.

F. The unexpended balance of the New Mexico recovery and reinvestment fund as of September 30, 2011 shall be returned to the federal government, unless federal law or regulation provides for a different disposition."

Chapter 61 Section 2 Laws 2010

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

House Bill 266, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 62

AN ACT

RELATING TO PUBLIC EMPLOYEES; ENACTING THE HAZARDOUS DUTY OFFICERS' EMPLOYER-EMPLOYEE RELATIONS ACT; PROVIDING PROCEDURES FOR EMPLOYERS AND EMPLOYEES TO FOLLOW IN CERTAIN ADMINISTRATIVE ACTIONS; PROVIDING CERTAIN RIGHTS TO HAZARDOUS DUTY OFFICERS IN CERTAIN CIRCUMSTANCES.

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

Chapter 62 Section 1 Laws 2010

Section 1. SHORT TITLE.--This act may be cited as the "Hazardous Duty Officers' Employer-Employee Relations Act".

Chapter 62 Section 2 Laws 2010

Section 2. DEFINITIONS.--As used in the Hazardous Duty Officers' Employer-Employee Relations Act:

A. "emergency medical technician" means an individual who has been licensed by the department of health as an emergency medical technician;

B. "firefighter" means an individual who is employed as a non-volunteer firefighter and who has taken the oath prescribed for firefighters;

C. "hazardous duty officer" or "officer" means an individual who is employed full-time by the state or a political subdivision of the state as a firefighter, emergency medical technician or paramedic, provided that "hazardous duty officer" does not include an individual who has not completed the probationary period established by the individual's employer as a condition of employment; and

D. "paramedic" means an individual who has been licensed by the department of health as a paramedic.

Chapter 62 Section 3 Laws 2010

Section 3. INVESTIGATIONS OF HAZARDOUS DUTY OFFICERS-- REQUIREMENTS--LIMITATION.--

A. When a hazardous duty officer is under investigation by the officer's employer for alleged actions that could result in administrative sanctions being levied against the officer, any interrogation of the officer shall be conducted:

(1) when the officer is on duty or during the officer's normal waking hours, unless the urgency of the investigation requires otherwise; and

(2) at the employer's facility, unless the urgency of the investigation requires otherwise.

B. Prior to commencement of an interrogation session:

(1) the officer shall be informed of the name and rank of the person in charge of the interrogation and all other persons who will be present during the interrogation;

(2) the officer shall be informed of the nature of the investigation, and the names of all known complainants shall be disclosed to the officer unless the chief administrator of the officer's employer determines that the identification of the complainant shall not be disclosed because it is necessary for the protection of an informant or because disclosure would jeopardize or compromise the integrity or security of the investigation; and

(3) a reasonable attempt shall be made to notify the officer's immediate superior of the pending interrogation.

C. During an interrogation session, the following requirements shall be adhered to:

(1) each interrogation session shall not exceed two hours unless the parties mutually consent to continuation of the session;

(2) there shall not be more than one interrogation session within a twenty-four-hour period, unless the parties mutually consent to additional sessions, provided that there shall be at least a one-hour rest period between the sessions;

(3) there shall not be more than two interrogators at any given time;

(4) the officer shall be allowed to attend to physical necessities as they occur in the course of an interrogation session; and

(5) the officer shall not be subjected to offensive language or illegal coercion by the officer's interrogator in the course of an interrogation session.

D. An interrogation of an officer shall be recorded, and the complete interrogation shall be published as a transcript; provided that any recesses called during the interrogation shall be noted in the transcript. An accurate copy of the transcript or tape shall be provided to the officer, upon written request, no later than fifteen working days after the investigation has been completed.

Chapter 62 Section 4 Laws 2010

Section 4. POLYGRAPH EXAMINATIONS.--After reviewing all the information collected in the course of an investigation of a hazardous duty officer, the chief administrator of the officer's employer may order the officer to submit to a polygraph examination administered by a licensed polygraph examiner, provided that:

A. all other reasonable investigative means have been exhausted; and

B. the officer has been advised of the administrator's reasons for ordering the polygraph examination.

Chapter 62 Section 5 Laws 2010

Section 5. RIGHT TO PRODUCE EVIDENCE.--When a hazardous duty officer is under investigation for an administrative matter, the officer shall be permitted to produce any relevant documents, witnesses or other evidence to support the officer's case and the officer may cross-examine any adverse witnesses during any grievance process or appeal involving disciplinary action.

Chapter 62 Section 6 Laws 2010

Section 6. PERSONNEL FILES.--

A. No document containing comments adverse to a hazardous duty officer shall be entered into the officer's personnel file unless the officer has read and signed the document. When an officer refuses to sign a document containing adverse comments, the document may be entered into an officer's personnel file if:

(1) the officer's refusal to sign is noted on the document by the chief administrator of the officer's employer; and

(2) the notation regarding the officer's refusal to sign the document is witnessed by a third party.

B. A hazardous duty officer may file a written response to any document containing adverse comments entered into the officer's personnel file, and the response shall be filed with the officer's employer within thirty days after the document was entered into the officer's personnel file. A hazardous duty officer's written response shall be attached to the document.

Chapter 62 Section 7 Laws 2010

Section 7. CONSTITUTIONAL RIGHTS--NOTIFICATION.--When a hazardous duty officer is under administrative investigation and a determination is made to commence a criminal investigation, the officer shall be immediately notified of the investigation and shall be afforded all the protections set forth in the bill of rights of the United States constitution and of the constitution of New Mexico.

Chapter 62 Section 8 Laws 2010

Section 8. FORCED DISCLOSURE OF FINANCIAL INFORMATION.--A hazardous duty officer shall not be required by an employer to disclose information regarding the officer's financial status, unless all other reasonable investigative means have been exhausted or except as otherwise required by law.

Chapter 62 Section 9 Laws 2010

Section 9. POLITICAL ACTIVITY.--A hazardous duty officer shall not be prohibited by an employer from engaging in any political activity when the officer is off duty, except as otherwise provided by law.

Chapter 62 Section 10 Laws 2010

Section 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

SPAC/Senate Bill 60, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 63

AN ACT

RELATING TO FINANCE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS FOR PRIVATE PROJECTS FROM THE ECONOMIC DEVELOPMENT REVOLVING FUND; DECLARING AN EMERGENCY.

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

Chapter 63 Section 1 Laws 2010

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Sections 6-25-6 and 6-25-13 NMSA 1978, the legislature authorizes the New Mexico finance authority to provide financing assistance in the form of loan participations with private lenders for up to forty-nine percent of total individual project financing, not to exceed five million dollars (\$5,000,000) per project, from the economic development revolving fund to eligible entities for the following standard projects, subject to detailed analysis, final approval and specific terms and conditions established by the authority:

1. a wood industry-related manufacturing project in Cibola county;
2. a food manufacturing project in Taos county;
3. an LED/solar commercial manufacturing project in Bernalillo county;
4. a downtown revitalization project/service industry project in Bernalillo county;
5. ceramics manufacturing projects in Bernalillo and Dona Ana counties;
6. renewable biofuels and solar fuel manufacturing projects in Luna county;
7. an automotive parts manufacturing project in Luna county;
8. a steel manufacturing project in the Pueblo of Acoma;
9. a downtown preservation project in Valencia county;
10. a media, assisted living and hospitality project in San Miguel county;

11. a biotechnology project in Los Alamos county;
12. a water technology manufacturing project in Santa Fe county;
13. a downtown revitalization project in Socorro county;
14. a service industry project in Socorro county;
15. a digital motion picture animation project in Sandoval county;
16. a workforce training center and incubator project in Lea county;
17. a weatherization materials manufacturing project in McKinley county;
18. a manufacturing project in Bernalillo county;
19. a food manufacturing project in Luna county;
20. a solar panel manufacturing project in Luna county;
21. a food manufacturing project in Chaves county;
22. a panel production manufacturing project in Bernalillo county;
23. a solar and solar parts manufacturing project in Bernalillo county;
24. a hospitality industry project in Hidalgo county;
25. a hospitality industry project in Luna county;
26. a hospitality industry project in Chaves county;
27. a downtown revitalization project and service industry project in Bernalillo county;
28. a manufacturing project in San Juan county;
29. a manufacturing project in San Juan county;
30. a renewable, green energy housing and service industry project in Taos county;
31. a food processing project in McKinley county;
32. a downtown revitalization project in Santa Fe county;

33. a hospitality industry and historic renovation project in Santa Fe county;

34. a renewable fuel manufacturing project in McKinley county;

35. a hospitality industry project in Otero county;

36. an ethanol manufacturing project in Quay county;

37. an aerospace manufacturing project in Chaves county; and

38. a hospitality industry project in Taos county.

Chapter 63 Section 2 Laws 2010

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

Senate Bill 66, aa, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 64

AN ACT

RELATING TO TRANSACTION FEES; ALLOWING STATE AGENCIES AND LOCAL GOVERNING BODIES TO CHARGE A FEE TO COVER THE COST OF PROCESSING A CREDIT CARD OR ELECTRONIC TRANSFER TRANSACTION.

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

Chapter 64 Section 1 Laws 2010

Section 1. Section 6-10-1.2 NMSA 1978 (being Laws 1999, Chapter 176, Section 1, as amended) is amended to read:

"6-10-1.2. PAYMENT METHODS AUTHORIZED--FEE.--

A. A state agency or local governing body may accept payment by credit card or electronic means of any amount due under any law or program administered by the agency or local governing body. The state board of finance shall adopt rules on the terms and conditions of a state agency accepting payments by credit card or electronic

transfer. The local governing body shall adopt procedures, subject to the approval of the department, on the terms and conditions of accepting payments by credit card or electronic transfer.

B. A state agency or local governing body may charge a convenience fee to cover the exact fees imposed by the financial institution for the cost of processing a credit card or electronic transfer transaction. The fee shall be charged to the person using a credit card or electronic transfer. Amounts collected pursuant to this subsection are appropriated to the state agency or local governing body to defray the cost of processing the transaction."

Senate Bill 77, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 65

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE SCHOOL LEADERSHIP INSTITUTE; PROVIDING POWERS AND DUTIES.

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

Chapter 65 Section 1 Laws 2010

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

"SCHOOL LEADERSHIP INSTITUTE--CREATED--PURPOSE.--

A. The "school leadership institute" is created and is administratively attached to the higher education department. The department shall provide administrative services for the institute. The institute shall provide a comprehensive and cohesive framework for preparing, mentoring and providing professional development for principals and other public school leaders.

B. The institute shall offer at least the following programs:

- (1) licensure preparation for aspiring principals;
- (2) mentoring for new principals and other public school leaders;
- (3) intensive support for principals at schools in need of improvement;

- (4) professional development for aspiring superintendents; and
- (5) mentoring for new superintendents.

C. The institute shall partner with state agencies, institutions of higher education and professional associations to identify and recruit candidates for the institute."

Senate Bill 85

Approved March 8, 2010

LAWS 2010, CHAPTER 66

AN ACT

DELAYING THE APPLICABILITY OF CHANGES TO THE SCHOOL YEAR AND LENGTH OF SCHOOL DAY PROVISIONS.

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

Chapter 66 Section 1 Laws 2010

Section 1. Laws 2009, Chapter 276, Section 3 is amended to read:

"Section 3. APPLICABILITY.--The provisions of this act apply to the 2011-2012 and subsequent school years."

SFC/Senate Bills 87 & 92

Approved March 8, 2010

LAWS 2010, CHAPTER 67

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; DELAYING CONTRIBUTION INCREASES FOR EDUCATIONAL RETIREMENT.

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

Chapter 67 Section 1 Laws 2010

Section 1. Section 22-11-21 NMSA 1978 (being Laws 1967, Chapter 16, Section 144, as amended) is amended to read:

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE UNITS.--

A. Except as provided in Subsection C of this section, each member shall make contributions to the fund according to the following schedule:

(1) through June 30, 2005, an amount equal to seven and six-tenths percent of the member's annual salary;

(2) from July 1, 2005 through June 30, 2006, an amount equal to seven and six hundred seventy-five thousandths percent of the member's annual salary;

(3) from July 1, 2006 through June 30, 2007, an amount equal to seven and seventy-five hundredths percent of the member's annual salary;

(4) from July 1, 2007 through June 30, 2008, an amount equal to seven and eight hundred twenty-five thousandths percent of the member's annual salary; and

(5) on and after July 1, 2008, an amount equal to seven and nine-tenths percent of the member's annual salary, except that, from July 1, 2009 through June 30, 2011, for members whose annual salary is greater than twenty thousand dollars (\$20,000), the member contribution rate shall be nine and four-tenths percent of the member's annual salary.

B. Except as provided in Subsection C of this section, each local administrative unit shall make an annual contribution to the fund according to the following schedule:

(1) through June 30, 2005, a sum equal to eight and sixty-five hundredths percent of the annual salary of each member employed by the local administrative unit;

(2) from July 1, 2005 through June 30, 2006, a sum equal to nine and forty-hundredths percent of the annual salary of each member employed by the local administrative unit;

(3) from July 1, 2006 through June 30, 2007, a sum equal to ten and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit;

(4) from July 1, 2007 through June 30, 2008, a sum equal to ten and ninety-hundredths percent of the annual salary of each member employed by the local administrative unit;

(5) from July 1, 2008 through June 30, 2009, a sum equal to eleven and sixty-five hundredths percent of the annual salary of each member employed by the local administrative unit;

(6) from July 1, 2009 through June 30, 2011, a sum equal to ten and nine-tenths percent of the annual salary of each member employed by the local administrative unit, except that, for members whose annual salary is twenty thousand dollars (\$20,000) or less, the local administrative unit shall contribute twelve and four-tenths percent of the member's annual salary;

(7) from July 1, 2011 through June 30, 2012, a sum equal to thirteen and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit; and

(8) on and after July 1, 2012, a sum equal to thirteen and nine-tenths percent of the annual salary of each member employed by the local administrative unit.

C. If, in a calendar year, the salary of a member, initially employed by a local administrative unit on or after July 1, 1996, equals the annual compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, then:

(1) for the remainder of that calendar year, no additional member contributions or local administrative unit contributions for that member shall be made pursuant to this section; provided that no member shall be denied service credit solely because contributions are not made by the member or on behalf of the member pursuant to the provisions of this subsection; and

(2) the amount of the annual compensation limit shall be divided into four equal portions, and, for purposes of attributing contributory employment and crediting service credit, each portion shall be attributable to one of the four quarters of the calendar year."

Chapter 67 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Approved March 8, 2010

LAWS 2010, CHAPTER 68

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FLEXIBILITY TO SCHOOL DISTRICTS TO MEET STATE FISCAL SOLVENCY REQUIREMENTS.

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

Chapter 68 Section 1 Laws 2010

Section 1. A new section of the Public School Code is enacted to read:

"WAIVER OF REQUIREMENTS--TEMPORARY PROVISION.--The legislature finds that school districts need flexibility to meet state fiscal solvency requirements. For the 2009-2010 through 2011-2012 school years, the secretary may waive requirements of the Public School Code and rules promulgated in accordance with that code pertaining to individual class load, teaching load, length of school day, staffing patterns, subject areas and purchases of instructional materials. The department shall monitor such waivers, and the secretary shall report to the legislative education study committee and the legislative finance committee on any issues or actions of a school district that appear to adversely affect student learning."

Senate Bill 97, w/o ec

Approved March 8, 2010

LAWS 2010, CHAPTER 69

AN ACT

RELATING TO VOLUNTEER FIREFIGHTERS; ALLOWING FIRE PROTECTION GRANTS TO BE USED FOR STIPENDS FOR VOLUNTEER FIREFIGHTERS IN UNDERSERVED AREAS; PROVIDING FOR EVALUATION CRITERIA AND LIMITATIONS.

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

Chapter 69 Section 1 Laws 2010

Section 1. Section 59A-53-19 NMSA 1978 (being Laws 2006, Chapter 103, Section 8, as amended) is amended to read:

"59A-53-19. FIRE PROTECTION GRANT COUNCIL--DUTIES.--

A. The "fire protection grant council" is created. Subject to the requirements of Subsection B of this section, the council shall consist of:

- (1) a representative of the New Mexico municipal league;
 - (2) a representative of the New Mexico association of counties;
 - (3) two members appointed by the public regulation commission who shall serve at the pleasure of the commission;
 - (4) three members, one from each congressional district, appointed by the governor who shall serve at the pleasure of the governor; and
 - (5) the marshal, who shall serve as a nonvoting advisory member.
- The council shall elect a chair and vice chair from its membership.

B. No appointee to the council shall be a member of the public regulation commission, the superintendent of insurance or any other employee of the commission.

C. The public members are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

D. The council shall develop criteria for assessing the critical needs of municipal and county fire districts for:

- (1) fire apparatus and equipment;
- (2) communications equipment;
- (3) equipment for wildfires;
- (4) fire station construction or expansion;
- (5) equipment for hazardous material response; and
- (6) stipends for volunteer firefighters in underserved areas.

E. Applications for grant assistance from the fire protection grant fund shall be made by fire districts to the council in accordance with the requirements of the council. Using criteria developed by the council, the council shall evaluate applications

and prioritize those applications most in need of grant assistance from the fund. To the extent that money in the fund is available, the council shall award grant assistance for those prioritized applications.

F. In awarding grant assistance, the council may require conditions and procedures necessary to ensure that the money is expended in the most prudent manner.

G. When considering applications for grant assistance to pay stipends to volunteer firefighters in underserved areas, the council shall:

(1) define "underserved area";

(2) ensure the proposed stipends will comply with the federal Fair Labor Standards Act of 1938 and United States department of labor requirements for maintaining volunteer status;

(3) require a basic level of training before a volunteer may receive a stipend;

(4) consider whether the fire district requires a service commitment from its volunteer firefighters in exchange for stipends; and

(5) weight the applications against other criteria or requirements determined by the council."

Senate Bill 100

Approved March 8, 2010

LAWS 2010, CHAPTER 70

AN ACT

RELATING TO THE MOTOR VEHICLE CODE; PROVIDING FOR THE RENEWAL OF DRIVER'S LICENSES OR IDENTIFICATION CARDS BY ALTERNATIVE MEANS; PROVIDING FOR THE EXPIRATION OF DRIVER'S LICENSES THIRTY DAYS FOLLOWING THE HOLDER'S TWENTY-FIRST OR

SEVENTY-FIFTH BIRTHDAY; PROVIDING FOR FLEXIBILITY IN THE EXPIRATION DATES OF IDENTIFICATION CARDS; AUTHORIZING PRORATION OF FEES.

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

Chapter 70 Section 1 Laws 2010

Section 1. Section 66-5-14 NMSA 1978 (being Laws 1978, Chapter 35, Section 236, as amended) is amended to read:

"66-5-14. EXAMINATION OF APPLICANTS.--

A. The department shall examine every first-time applicant for a driver's license or a motorcycle endorsement and may examine other applicants for a driver's license or motorcycle endorsement. The examination shall include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of the traffic laws of this state and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle except as provided in Section 66-5-7 NMSA 1978 and any further physical and mental examination as the department finds necessary to determine the applicant's fitness to operate a motor vehicle or motorcycle safely upon the highways.

B. Regardless of whether an applicant is examined under Subsection A of this section, the department shall test the eyesight of every applicant for a driver's license or motorcycle endorsement unless the application is for renewal of a license or endorsement and is made by mail or telephonic or electronic means.

C. The department is authorized to contract with other persons for conduct of tests of the applicant's ability to exercise ordinary and reasonable control of a motor vehicle. Any such contract may be terminated by the secretary upon written notice for failure of the contractor to perform the contractor's duties to the secretary's satisfaction. Contracts under this subsection may provide for the form of notice and the length of the period, if any, between the notice and the effective date of the termination.

D. For purposes of this section, a "first-time applicant" means an applicant other than a person who:

(1) holds a currently valid driver's license issued by New Mexico or any other jurisdiction at the time of application; or

(2) does not hold a currently valid driver's license issued by New Mexico or any other jurisdiction at the time of application but who held a valid driver's license issued by New Mexico or any other jurisdiction within one year prior to the date of application if that driver's license was not revoked under any provision of the Motor Vehicle Code or suspended, canceled or revoked under the laws of any other jurisdiction for reasons similar to those for which revocation is authorized under the Motor Vehicle Code."

Chapter 70 Section 2 Laws 2010

Section 2. Section 66-5-21 NMSA 1978 (being Laws 1978, Chapter 35, Section 243, as amended) is amended to read:

"66-5-21. EXPIRATION OF LICENSE--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--RENEWAL.--

A. Except as provided in Subsection B or D of this section, Section 66-5-19 NMSA 1978 and Section 66-5-67 NMSA 1978, all driver's licenses shall be issued for a period of four years, and each license shall expire thirty days after the applicant's birthday in the fourth year after the effective date of the license or shall expire thirty days after the applicant's seventy-fifth birthday. A license issued pursuant to Section 66-5-19 NMSA 1978 shall expire thirty days after the applicant's birthday in the year in which the license expires. Each license is renewable within ninety days prior to its expiration or at an earlier date approved by the department. The fee for the license shall be as provided in Section 66-5-44 NMSA 1978. The department may provide for renewal by mail or telephonic or electronic means of a driver's license issued pursuant to the provisions of this subsection, pursuant to regulations adopted by the department that ensure adequate security measures to safeguard personal information that is obtained in the issuance of a driver's license. The department may require an examination upon renewal of the driver's license.

B. At the option of an applicant, a driver's license may be issued for a period of eight years, provided that the applicant:

(1) pays the amount required for a driver's license issued for a term of eight years;

(2) otherwise qualifies for a four-year driver's license; and

(3) will not reach the age of seventy-five during the last four years of the eight-year license period or reach the age of twenty-one during any year within the term of the license.

C. A driver's license issued pursuant to the provisions of Subsection B of this section shall expire thirty days after the applicant's birthday in the eighth year after the effective date of the license.

D. A driver's license issued prior to an applicant's twenty-first birthday shall expire thirty days after the applicant's twenty-first birthday. A driver's license issued prior to an applicant's twenty-first birthday may be issued for a period of up to five years.

E. The director may adopt regulations providing for the proration of driver's license fees and commercial driver's license fees due to shortened licensure periods permitted pursuant to Subsection A of Section 66-5-19 NMSA 1978 or for licensure periods authorized pursuant to the provisions of this section."

Chapter 70 Section 3 Laws 2010

Section 3. Section 66-5-403 NMSA 1978 (being Laws 1973, Chapter 269, Section 3, as amended) is amended to read:

"66-5-403. EXPIRATION OF IDENTIFICATION CARDS--DURATION--RENEWAL.--

A. Except as provided in Subsection B or C of this section, every identification card shall be issued for a period not to exceed four years and shall expire on the last day of the month of the identified person's birth in the fourth year after the effective date of the identification card.

B. An identification card may be renewed within ninety days prior to its expiration or at an earlier date approved by the department. An identification card may be renewed by mail or telephonic or electronic means pursuant to regulations adopted by the department. The regulations shall ensure adequate security measures to safeguard personal information that is obtained in the issuance of an identification card.

C. At the option of the applicant for an identification card, a card may be issued for a period of eight years, provided that the applicant pays the amount required for an identification card issued for a term of eight years. An identification card issued pursuant to the provisions of this subsection shall expire on the last day of the month of the applicant's birth in the eighth year after the effective date of the identification card. The identification card may be renewed within ninety days prior to its expiration."

Chapter 70 Section 4 Laws 2010

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 137

Approved March 8, 2010

LAWS 2010, CHAPTER 71

AN ACT

RELATING TO HIGHER EDUCATION; PROHIBITING POST-SECONDARY EDUCATIONAL INSTITUTIONS IN NEW MEXICO FROM SELLING STUDENT LISTS TO CREDIT CARD ISSUERS AND FROM CONTRACTING OR COOPERATING WITH

CREDIT CARD ISSUERS TO MARKET CREDIT CARDS; PROVIDING FOR CIVIL LIABILITY.

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

Chapter 71 Section 1 Laws 2010

Section 1. SALE OF STUDENT INFORMATION--MARKETING CREDIT CARDS TO STUDENTS--PROHIBITED PRACTICES.--

A. No public or private post-secondary educational institution, including its agents, its employees, its student or alumni organizations or its affiliates, shall:

(1) sell, give or otherwise transfer to any card issuer, for the purpose of distributing or marketing credit cards, the name, address, social security number, date of birth, telephone number or other contact or personal identifying information of an undergraduate student at the post-secondary educational institution;

(2) enter into any agreement or cooperate with a card issuer to market credit cards to undergraduate students at the post-secondary educational institution; or

(3) allow the marketing of credit cards from the property or campus of the post-secondary educational institution.

B. A person whose contact information was sold, given or transferred in violation of this section, or the attorney general, may bring a civil action and seek a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) for each violation plus costs of the action and reasonable attorney fees.

C. For purposes of this section, "credit card" and "card issuer" have the meanings given them in the federal

Truth in Lending Act.

Senate Bill 152, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 72

AN ACT

RELATING TO FISHING LICENSES; PROVIDING FOR NO-FEE FISHING LICENSES AND HABITAT STAMPS FOR DISABLED ACTIVE DUTY AND VETERAN MILITARY MEMBERS WHO ARE UNDERGOING A REHABILITATION PROGRAM THAT INCLUDES LEARNING AND PRACTICING FISHING SKILLS.

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

Chapter 72 Section 1 Laws 2010

Section 1. DISABLED MILITARY MEMBERS AND VETERANS--FISHING LICENSE FEE EXEMPTION.--The director of the department of game and fish shall issue without any fee on an annual or seasonal basis a fishing license and appropriate habitat management stamp to a disabled member or veteran of the United States armed forces who is undergoing a rehabilitation program that:

- A. involves learning and practicing fishing skills;
- B. is sponsored by the federal government or a nonprofit organization authorized by the federal government; and
- C. is under the direction of a military or federal veterans administration rehabilitation center.

Chapter 72 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 193

Approved March 8, 2010

LAWS 2010, CHAPTER 73

AN ACT

RELATING TO PUBLIC BUILDINGS; REALIZING COST SAVINGS THROUGH ENERGY EFFICIENCY STANDARDS FOR CERTAIN NEW PUBLIC BUILDINGS AND CERTAIN ADDITIONS AND RENOVATIONS TO EXISTING PUBLIC BUILDINGS.

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

Chapter 73 Section 1 Laws 2010

Section 1. ENERGY EFFICIENCY STANDARDS FOR PUBLIC BUILDINGS.--

A. As used in this section:

(1) "department" means the energy, minerals and natural resources department;

(2) "new building" means a building to be constructed that is designed with a square footage of three thousand or more square feet;

(3) "selected building addition" means an addition to a building that increases the square footage of the building by three thousand or more square feet; and

(4) "selected building renovation" means a renovation of a building that includes upgrade or replacement of at least two of the following:

(a) heating, ventilation and air conditioning systems;

(b) electrical systems, including lighting systems; and

(c) the components that separate the interior and the exterior environments of a building and serve to protect the indoor environment and facilitate climate control.

B. Except as provided in Subsection C of this section, a new building, selected building addition or selected building renovation that is financed to any extent with legislative appropriations of state general fund revenues, severance tax bond proceeds, supplemental severance tax bond proceeds or state general obligation bond proceeds shall be designed and constructed to attain the energy star qualification of the United States environmental protection agency, or an alternative, equivalent standard specified by rule of the department.

C. The requirements of this section do not apply to:

(1) a new building, a selected building addition or a selected building renovation for which the initial legislative appropriation is made prior to January 1, 2011;

(2) a new building, a selected building addition or a selected building renovation for which, in the department's opinion, substantial design expenditures have been made prior to July 1, 2010;

(3) a selected building addition to an existing building or a selected building renovation to an existing building if the existing building is listed in the state register of cultural properties of the national register of historic places; or

(4) a new building, selected building addition or selected building renovation if the department determines that the costs of compliance with the requirements of this section would exceed the estimated life-cycle savings of the building, addition or renovation.

SFC/Senate Bill 200

Approved March 8, 2010

LAWS 2010, CHAPTER 74

AN ACT

RELATING TO ACCESSIBLE PARKING FOR PERSONS WITH DISABILITIES; AMENDING A SECTION OF THE NMSA 1978 TO PROVIDE FOR TRAINING OF LAW ENFORCEMENT OFFICERS REGARDING DISABLED-ACCESSIBLE PARKING; AMENDING SECTIONS OF THE MOTOR VEHICLE CODE TO PROVIDE FOR SHORTER PLACARD- AND PLATE-RENEWAL PERIODS AND MORE EXPLICIT MARKING OF ACCESSIBLE PARKING SPOTS; AMENDING SECTIONS OF THE ACCESSIBLE PARKING STANDARDS AND ENFORCEMENT ACT TO PROVIDE FOR GREATER ENFORCEMENT AND MORE EXPLICIT MARKING OF ACCESSIBLE PARKING SPOTS.

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

Chapter 74 Section 1 Laws 2010

Section 1. Section 28-10-2 NMSA 1978 (being Laws 1973, Chapter 349, Section 2, as amended) is amended to read:

"28-10-2. GOVERNOR'S COMMISSION ON DISABILITY--POWERS AND DUTIES.--The governor's commission on disability shall establish and maintain a comprehensive statewide program designed to encourage and promote attention to the concerns of the training and employment of individuals with disabilities in this state. To further this purpose, the commission shall:

A. cooperate with the president's committee on employment of individuals with disabilities and other federal efforts on behalf of disability concerns;

B. cooperate with all employers and training leaders, both public and private, in locating or developing employment opportunities for individuals with disabilities;

C. encourage and assist in the organization and operation of committees at the community level, the chairs of which shall automatically become members of the advisory council authorized under Section 28-10-4 NMSA 1978;

D. assist state, local and federal agencies to coordinate their activities to secure maximum utilization of funds and efforts that aid in the training and employment of individuals with disabilities;

E. enter into written agreements with public and private employers, unions and rehabilitation agencies for the purpose of achieving the maximum employment of individuals with disabilities;

F. inform individuals with disabilities who are seeking jobs of specific facilities available to assist them in locating suitable training and employment;

G. conduct educational programs via publications and other means to acquaint the public, the legislature and the governor with the abilities and the accomplishments of individuals with disabilities;

H. promote the elimination of architectural barriers in construction so as to make buildings used by the public readily accessible to and usable by persons with physical limitations;

I. make such rules as it determines advisable for the conduct of its own business;

J. designate standing committees related to state planning, community organization, public relations and information, legislative action, federal coordination, state coordination, youth, medical rehabilitation, employers and awards;

K. designate such special committees as necessary for undetermined periods to carry out special short-term programs;

L. establish and administer a residential accessibility modification program to assist low-income individuals with disabilities to make accessibility modifications to residential dwellings as needed to enable those individuals with disabilities to remain in their homes or to leave institutional settings and be reintegrated into the community;

M. give advice and testimony on disability concerns to the governor or the legislature or any committee established by them, upon request; and

N. provide training to state and local law enforcement officers regarding matters pertaining to accessible parking for persons with disabilities."

Chapter 74 Section 2 Laws 2010

Section 2. Section 66-1-4.1 NMSA 1978 (being Laws 1990, Chapter 120, Section 2, as amended) is amended to read:

"66-1-4.1. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "abandoned vehicle" means a vehicle or motor vehicle that has been determined by a New Mexico law enforcement agency:

(1) to have been left unattended on either public or private property for at least thirty days;

(2) not to have been reported stolen;

(3) not to have been claimed by any person asserting ownership;
and

(4) not to have been shown by normal
record-checking procedures to be owned by any person;

B. "access aisle" means a space designed to allow a person with a significant mobility limitation to safely exit and enter a motor vehicle that is immediately adjacent to a designated parking space for persons with significant mobility limitation and that may be common to two such parking spaces of at least sixty inches in width or, if the parking space is designed for van accessibility, ninety-six inches in width, and clearly marked and maintained with blue striping and, after January 1, 2011, the words "NO PARKING" in capital letters, each of which shall be at least one foot high and at least two inches wide, placed at the rear of the parking space so as to be close to where an adjacent vehicle's rear tires would be placed;

C. "actual empty weight" means the weight of a vehicle without a load;

D. "additional place of business", for dealers and auto recyclers, means locations in addition to an established place of business as defined in Section 66-1-4.5 NMSA 1978 and meeting all the requirements of an established place of business, except Paragraph (5) of Subsection C of Section 66-1-4.5 NMSA 1978, but "additional place of business" does not mean a location used solely for storage and that is not used for wrecking, dismantling, sale or resale of vehicles;

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

F. "authorized emergency vehicle" means any fire department vehicle, police vehicle, ambulance and any emergency vehicles of municipal departments or public utilities that are designated or authorized as emergency vehicles by the director of the New Mexico state police division of the department of public safety or local authorities; and

G. "auto recycler" means a person engaged in this state in an established business that includes acquiring vehicles that are required to be registered under the Motor Vehicle Code for the purpose of dismantling, wrecking, shredding, compacting, crushing or otherwise destroying vehicles for reclaimable parts or scrap material to sell."

Chapter 74 Section 3 Laws 2010

Section 3. Section 66-3-16 NMSA 1978 (being Laws 1978, Chapter 35, Section 36, as amended) is amended to read:

"66-3-16. DISTINCTIVE REGISTRATION PLATES--PERSONS WITH SIGNIFICANT MOBILITY LIMITATION--PARKING PLACARD.--

A. The division shall issue distinctive registration plates for use on motor vehicles and motorcycles owned by a person with a significant mobility limitation who requests a distinctive registration plate and who proves satisfactorily to the division that the person meets the standard provided in Subsection J of this section. No fee in addition to the regular registration fee, if any, applicable to the motor vehicle or motorcycle shall be collected for issuance of distinctive registration plates pursuant to this section.

B. No person shall falsely claim to have a significant mobility limitation so as to be eligible to be issued a distinctive registration plate or a parking placard pursuant to this section when the person does not in fact have a significant mobility limitation. Upon notice and opportunity to be heard, the division may revoke and demand return of any placard when:

- (1) it was issued in error or with false information;
- (2) the person receiving the placard is no longer eligible; or
- (3) the placard is being used by ineligible persons.

C. Upon written application to the division accompanied by a medical statement by a licensed physician attesting to the permanent significant mobility limitation, a resident of the state who has a significant mobility limitation, as provided in this section, may apply for and be issued no more than two parking placards for display upon a motor vehicle registered to the person or motor vehicle owned by another person who is transporting the person with a significant mobility limitation. The physician shall provide the division all information and records necessary to issue a permanent

parking placard. Once approved for use of a permanent parking placard, a person with a significant mobility limitation shall not be required to furnish further medical information.

D. A parking placard issued pursuant to this section shall expire four years from the date it was issued.

E. The division shall issue two-sided hanger-style parking placards with the following characteristics:

- (1) a picture of the international symbol of access;
- (2) a hologram to make duplication difficult;
- (3) an imprinted expiration date; and
- (4) a full-face photograph of the holder on the inside of the placard covered by a flap.

F. The division shall consult with the governor's commission on disability for continued issuance and format of the placard.

G. The division may issue an identification card containing a full-face photograph of the holder of the registration plate or parking placard and the number of the registration plate or parking placard issued to that person.

H. Upon written application to the division accompanied by a medical statement from a licensed physician attesting to a temporary significant mobility limitation, a person may be issued a temporary placard for no more than one year. The physician shall provide the division all information and records necessary to issue a temporary placard.

I. Registration plates or parking placards issued to a person with a significant mobility limitation by another state or foreign jurisdiction shall be honored until the motor vehicle or motorcycle is registered or the parking placard holder establishes residency in this state.

J. A person with a significant mobility limitation means a person who:

- (1) cannot walk one hundred feet without stopping to rest;
- (2) cannot walk without the use of a brace, cane or crutch or without assistance from another person, a prosthetic device, a wheelchair or other assistive device;

(3) is restricted by lung disease to such an extent that the person's forced respiratory volume, when exhaling for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty millimeters on room air at rest;

(4) uses portable oxygen;

(5) has a severe cardiac condition; or

(6) is so severely limited in the ability to walk due to an arthritic, neurologic or orthopedic condition that the person cannot ascend or descend more than ten stair steps."

Chapter 74 Section 4 Laws 2010

Section 4. Section 66-7-352.4 NMSA 1978 (being Laws 1983, Chapter 45, Section 4, as amended) is amended to read:

"66-7-352.4. PARKING LOTS--STANDARDS.--

A. Every parking lot coming under the provisions of the Accessible Parking Standards and Enforcement Act shall have designated and maintained accessible parking spaces for persons with significant mobility limitation as provided in Subsection B of this section. No building permit shall be issued by any local government for the construction or substantial renovation of a commercial building inviting public access unless the parking lot has designated accessible parking spaces for persons with significant mobility limitation as delineated in Subsection B of this section.

B. The minimum numbers of designated accessible parking spaces for persons with significant mobility limitation are as follows:

TOTAL PARKING SPACES IN LOT PARKING	REQUIRED MINIMUM NUMBER OF PARKING
--	---------------------------------------

SPACES FOR PERSONS WITH SIGNIFICANT	
-------------------------------------	--

MOBILITY LIMITATION	
---------------------	--

1 to 25	1
---------	---

26 to 35	2
----------	---

36 to 50	3
----------	---

51 to 100	4
-----------	---

101 to 300	8
301 to 500	12
501 to 800	16
801 to 1,000	20
more than 1,000	20, plus 1 for each 100 over 1,000.

The designated accessible parking spaces for persons with significant mobility limitation shall be located so as to provide the most convenient access to entranceways or to the nearest curb cut. Every parking lot shall have at least one designated accessible parking space for persons with significant mobility limitation designed to accommodate a motor vehicle passenger van, and there shall be a minimum of one such space for every eight designated accessible parking spaces for persons with significant mobility limitation.

C. A sign or other designation posted after July 1, 2010 at an accessible parking space pursuant to this section shall include the language "Violators are subject to a fine and/or towing." "

Chapter 74 Section 5 Laws 2010

Section 5. Section 66-7-352.5 NMSA 1978 (being Laws 1983, Chapter 45, Section 5, as amended) is amended to read:

"66-7-352.5. UNAUTHORIZED USE--PENALTIES.--

A. It is unlawful for any person to park a motor vehicle not displaying a special registration plate or a parking placard issued pursuant to Section 66-3-16 NMSA 1978 in a designated accessible parking space for persons with significant mobility limitation.

B. It is unlawful for any person to park a motor vehicle in such a manner so as to block access to any part of a curb cut designed for access by persons with significant mobility limitation.

C. A person convicted of violating Subsection A or B of this section is subject to a fine of not less than two hundred fifty dollars (\$250) or more than five hundred dollars (\$500). Failure to properly display a parking placard or special

registration plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of Subsection A or B of this section.

D. A vehicle parked in violation of Subsection A or B of this section is subject to being towed at the expense of the vehicle owner upon authorization by law enforcement personnel or by the property owner or manager of a parking lot.

E. A law enforcement officer may issue a citation or authorize towing of a vehicle for a violation of Subsection A or B of this section regardless of the presence of the driver."

Senate Bill 209, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 75

AN ACT

RELATING TO TAXATION; AMENDING THE COUNTY LOCAL OPTION GROSS RECEIPTS TAXES ACT; AUTHORIZING ADDITIONAL PURPOSES AND EXTENSION OF THE PERIOD OF IMPOSITION FOR THE COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX.

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

Chapter 75 Section 1 Laws 2010

Section 1. Section 7-20E-12.1 NMSA 1978 (being Laws 1994, Chapter 14, Section 1, as amended) is amended to read:

"7-20E-12.1. COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX--
AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

A. A majority of the members of a governing body may enact an ordinance imposing an excise tax on a person engaging in business in the county for the privilege of engaging in business. The rate of the tax shall be one-fourth of one percent of the gross receipts of the person engaging in business. The tax shall be imposed for a period of not more than two years from the effective date of the ordinance imposing the tax. The tax may be imposed for an additional period not to exceed three years from the date of the ordinance imposing the tax for that period. On or after July 1, 1997:

(1) in a county described in Paragraph (1) of Subsection D of this section, the tax may be imposed for the period necessary for payment of bonds or a

loan for acquisition of land or buildings for and the design, construction, equipping, remodeling or improvement of a county hospital facility, but the period shall not exceed twenty years from the effective date of the ordinance imposing the tax for that period; provided, however, that a majority of the members of a governing body that has enacted an ordinance imposing the tax pursuant to the provisions of this paragraph may, prior to the date of the delayed repeal of the ordinance, enact an ordinance to extend the period of imposition of the previously imposed tax for an additional twenty years and modify the purposes for which the revenue from the tax is dedicated, consistent with one or more of the purposes permitted pursuant to this paragraph; and

(2) in a county described in Paragraph (2) of Subsection D of this section, the tax may be imposed for the period necessary for payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county health facility, but the period shall not exceed twenty years from the effective date of the ordinance imposing the tax for that period.

B. The tax imposed by this section may be referred to as the "county hospital emergency gross receipts tax".

C. At the time of enacting the ordinance imposing the tax authorized in this section:

(1) if the effective date of the tax is prior to July 1, 1997, the governing body shall dedicate the revenue for current operations and maintenance of a hospital owned by the county or a hospital with which the county has entered into a health care facilities contract; provided that a majority of the members of a governing body may enact an ordinance to change the purposes for which the revenue from a previously imposed tax is dedicated and to dedicate that revenue during the remainder of the tax imposition period to payment of bonds or a loan for acquisition of land or buildings for, and the design, construction, equipping, remodeling or improvement of, a county hospital facility; and

(2) if the effective date of the tax is on or after July 1, 1997:

(a) the governing body of a county described in Paragraph (1) of Subsection D of this section shall dedicate the revenue for the period of time the tax is imposed to payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county hospital facility; provided, however, that a majority of the members of a governing body that has imposed the tax and dedicated the revenue from that imposition pursuant to the provisions of this paragraph may, prior to the date of the delayed repeal of the ordinance imposing the tax, enact an ordinance to extend the period of imposition of the tax as provided in Paragraph (1) of Subsection A of this section and modify the purposes for which the revenue from the previously imposed tax is dedicated, and dedicate that revenue to payment of bonds or a loan for acquisition of land or buildings for, and the design, construction, equipping, remodeling or improvement of, a county hospital facility; and

(b) the governing body of a county described in Paragraph (2) of Subsection D of this section shall dedicate the revenue for the period of time the tax is imposed to payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county health facility.

D. As used in this section, "county" means:

(1) a class B county with a population of less than ten thousand according to the 1990 federal decennial census and with a net taxable value for rate-setting purposes for the 1993 property tax year in excess of one hundred million dollars (\$100,000,000); or

(2) a class B county with a population of less than ten thousand according to the 1990 federal decennial census and with a net taxable value for rate-setting purposes for the 1997 property tax year of more than one hundred million dollars (\$100,000,000) but less than one hundred twenty million dollars (\$120,000,000)."

Chapter 75 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 234

Approved March 8, 2010

LAWS 2010, CHAPTER 76

AN ACT

RELATING TO EMPLOYMENT; AMENDING THE CRIMINAL OFFENDER EMPLOYMENT ACT TO RESTRICT THE INQUIRY AND CONSIDERATION OF A CONVICTION UNTIL THE FINAL STAGES OF THE HIRING PROCESS.

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

Chapter 76 Section 1 Laws 2010

Section 1. Section 28-2-3 NMSA 1978 (being Laws 1974, Chapter 78, Section 3) is amended to read:

"28-2-3. EMPLOYMENT ELIGIBILITY DETERMINATION.--

A. Subject to the provisions of Subsection B of this section and Sections 28-2-4 and 28-2-5 NMSA 1978, in determining eligibility for employment with the state or any of its political subdivisions or for a license, permit, certificate or other authority to engage in any regulated trade, business or profession, the board or other department or agency having jurisdiction may take into consideration a conviction, but the conviction shall not operate as an automatic bar to obtaining public employment or license or other authority to practice the trade, business or profession. A board, department or agency of the state or any of its political subdivisions shall not make an inquiry regarding a conviction on an initial application for employment and shall only take into consideration a conviction after the applicant has been selected as a finalist for the position.

B. The following criminal records shall not be used, distributed or disseminated in connection with an application for any public employment, license or other authority:

(1) records of arrest not followed by a valid conviction; and

(2) misdemeanor convictions not involving moral turpitude."

Senate Bill 254

Approved March 8, 2010

LAWS 2010, CHAPTER 77

AN ACT

RELATING TO TAXATION; PROVIDING GROSS RECEIPTS AND COMPENSATING TAX DEDUCTIONS FOR QUALIFIED GENERATING FACILITIES; CLARIFYING THE MEANING OF TERMS FOR THE DEDUCTION FROM GROSS RECEIPTS FOR RECEIPTS FOR SELLING SOLAR AND WIND GENERATION EQUIPMENT TO GOVERNMENTS; MAKING AN APPROPRIATION.

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

Chapter 77 Section 1 Laws 2010

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"ADVANCED ENERGY DEDUCTION--GROSS RECEIPTS AND COMPENSATING TAXES.--

A. Receipts from selling tangible personal property or services that are eligible generation plant costs to a person that holds an interest in a qualified generating facility may be deducted from gross receipts if the holder of the interest delivers an appropriate nontaxable transaction certificate to the seller. The department shall issue nontaxable transaction certificates to a person that holds an interest in a qualified generating facility upon presentation to the department of a certificate of eligibility obtained from the department of environment pursuant to Subsection F of this section for the deduction created in this section or a certificate of eligibility pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978. The deduction created in this section may be referred to as the "advanced energy deduction".

B. The value of eligible generation plant costs from the sale of tangible personal property to a person that holds an interest in a qualified generating facility for which the department of environment has issued a certificate of eligibility pursuant to Subsection F of this section may be deducted in computing the compensating tax due.

C. The maximum tax benefit allowed for all eligible generation plant costs from a qualified generating facility shall be sixty million dollars (\$60,000,000) total for eligible generation plant costs deducted or claimed pursuant to this section or Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

D. Deductions taken pursuant to this section shall be reported separately on a form approved by the department. The nontaxable transaction certificates used to obtain tax-deductible tangible personal property or services shall display clearly a notice to the taxpayer that the deduction shall be reported separately from any other deductions claimed from gross receipts. A taxpayer deducting eligible generation plant costs from the costs on which compensating tax is imposed shall report those eligible generation plant costs that are being deducted.

E. The deductions allowed for a qualified generating facility pursuant to this section shall be available for a ten-year period from the year development of the qualified generating facility begins and expenditures are made for which nontaxable transaction certificates authorized pursuant to this section are submitted to sellers for eligible generation plant costs or deductions from the costs on which compensating tax are calculated are first taken for eligible generation plant costs.

F. An entity that holds an interest in a qualified generating facility may request a certificate of eligibility from the department of environment to enable the requester to obtain a nontaxable transaction certificate for the advanced energy deduction. The department of environment shall:

(1) determine if the facility is a qualified generating facility;

(2) require that the requester provide the department of environment with the information necessary to assess whether the requester's facility meets the criteria to be a qualified generating facility;

(3) issue a certificate from sequentially numbered certificates to the requester stating that the facility is or is not a qualified generating facility within one hundred eighty days after receiving all information necessary to make a determination;

(4) issue:

(a) rules governing the procedures for administering the provisions of this subsection; and

(b) a schedule of fees in which no fee exceeds one hundred fifty thousand dollars (\$150,000);

(5) deposit fees collected pursuant to this subsection in the state air quality permit fund created pursuant to Section 74-2-15 NMSA 1978; and

(6) report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the advanced energy deduction, including the identity of qualified generating facilities, the energy production means used, the amount of emissions identified in this section reduced and removed by those qualified generating facilities and whether any requests for certificates of eligibility could not be approved due to program limits.

G. If the department of environment issues a certificate of eligibility to a taxpayer stating that the taxpayer holds an interest in a qualified generating facility and the taxpayer does not sequester or control carbon dioxide emissions to the extent required by this section by the later of January 1, 2017 or eighteen months after the commercial operation date of the qualified generating facility, the taxpayer's certification as a qualified generating facility shall be revoked by the department of environment and the taxpayer shall repay to the state tax deductions granted pursuant to this section; provided that if the taxpayer demonstrates to the department of environment that the taxpayer made every effort to sequester or control carbon dioxide emissions to the extent feasible and the facility's inability to meet the sequestration requirements of a qualified generating facility was beyond the facility's control, in which case the department of environment shall determine, after a public hearing, the amount of tax deduction that should be repaid to the state. The department of environment, in its determination, shall consider the environmental performance of the facility and the extent to which the inability to meet the sequestration requirements of a qualified generating facility was in the control of the taxpayer. The repayment as determined by the department of environment shall be paid within one hundred eighty days following a final order by the department of environment.

H. The advanced energy deduction allowed pursuant to this section shall not be claimed for the same qualified expenses for which a taxpayer claims a credit pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978 or a deduction pursuant to Section 7-9-54.3 NMSA 1978.

I. As used in this section:

(1) "coal-based electric generating facility" means a new or repowered generating facility and an associated coal gasification facility, if any, that uses coal to generate electricity and that meets the following specifications:

(a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulate in the flue gas;

(b) removes the greater of: 1) what is achievable with the best available control technology; or 2) ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the coal-based electric generating facility; and

(f) does not exceed a name-plate capacity of seven hundred net megawatts;

(2) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

(3) "entity" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other association or a gas, water or electric utility owned or operated by a county or municipality;

(4) "geothermal electric generating facility" means a facility with a name-plate capacity of one megawatt or more that uses geothermal energy to generate

electricity, including a facility that captures and provides geothermal energy to a preexisting electric generating facility using other fuels in part;

(5) "interest in a qualified generating facility" means title to a qualified generating facility; a lessee's interest in a qualified generating facility; and a county or municipality's interest in a qualified generating facility when the county or municipality issues an industrial revenue bond for construction of the qualified generating facility;

(6) "name-plate capacity" means the maximum rated output of the facility measured as alternating current or the equivalent direct current measurement;

(7) "qualified generating facility" means a facility that begins construction not later than December 31, 2015 and is:

(a) a solar thermal electric generating facility that begins construction on or after July 1, 2010 and that may include an associated renewable energy storage facility;

(b) a solar photovoltaic electric generating facility that begins construction on or after July 1, 2010 and that may include an associated renewable energy storage facility;

(c) a geothermal electric generating facility that begins construction on or after July 1, 2010;

(d) a recycled energy project if that facility begins construction on or after July 1, 2010; or

(e) a new or repowered coal-based electric generating facility and an associated coal gasification facility;

(8) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the exhaust stacks or pipes to electricity without combustion of additional fossil fuel;

(9) "sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coalbed methane or natural gas recovery techniques;

(10) "solar photovoltaic electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar photovoltaic energy to generate electricity; and

(11) "solar thermal electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar thermal energy to generate electricity, including a facility that captures and provides solar thermal energy to a preexisting electric generating facility using other fuels in part."

Chapter 77 Section 2 Laws 2010

Section 2. Section 7-9-54.3 NMSA 1978 (being Laws 2002, Chapter 37, Section 8) is amended to read:

"7-9-54.3. DEDUCTION--GROSS RECEIPTS TAX--WIND AND SOLAR GENERATION EQUIPMENT--SALES TO GOVERNMENTS.--

A. Receipts from selling wind generation equipment or solar generation equipment to a government for the purpose of installing a wind or solar electric generation facility may be deducted from gross receipts.

B. The deduction allowed pursuant to this section shall not be claimed for receipts from an expenditure for which a taxpayer claims a credit pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

C. As used in this section:

(1) "government" means the United States or the state or a governmental unit or a subdivision, agency, department or instrumentality of the federal government or the state;

(2) "related equipment" means transformers, circuit breakers and switching and metering equipment used to connect a wind or solar electric generation plant to the electric grid;

(3) "solar generation equipment" means solar thermal energy collection, concentration and heat transfer and conversion equipment; solar tracking hardware and software; photovoltaic panels and inverters; support structures; turbines and associated electrical generating equipment used to generate electricity from solar thermal energy; and related equipment; and

(4) "wind generation equipment" means wind generation turbines, blades, nacelles, rotors and supporting structures used to generate electricity from wind and related equipment."

Chapter 77 Section 3 Laws 2010

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

SFC/Senate Bills 201 & 202, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 78

AN ACT

RELATING TO TAXATION; PROVIDING GROSS RECEIPTS AND COMPENSATING TAX DEDUCTIONS FOR QUALIFIED GENERATING FACILITIES; CLARIFYING THE MEANING OF TERMS FOR THE DEDUCTION FROM GROSS RECEIPTS FOR RECEIPTS FOR SELLING SOLAR AND WIND GENERATION EQUIPMENT TO GOVERNMENTS; MAKING AN APPROPRIATION.

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

Chapter 78 Section 1 Laws 2010

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"ADVANCED ENERGY DEDUCTION--GROSS RECEIPTS AND COMPENSATING TAXES.--

A. Receipts from selling tangible personal property or services that are eligible generation plant costs to a person that holds an interest in a qualified generating facility may be deducted from gross receipts if the holder of the interest delivers an appropriate nontaxable transaction certificate to the seller. The department shall issue nontaxable transaction certificates to a person that holds an interest in a qualified generating facility upon presentation to the department of a certificate of eligibility obtained from the department of environment pursuant to Subsection F of this section for the deduction created in this section or a certificate of eligibility pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978. The deduction created in this section may be referred to as the "advanced energy deduction".

B. The value of eligible generation plant costs from the sale of tangible personal property to a person that holds an interest in a qualified generating facility for which the department of environment has issued a certificate of eligibility pursuant to Subsection F of this section may be deducted in computing the compensating tax due.

C. The maximum tax benefit allowed for all eligible generation plant costs from a qualified generating facility shall be sixty million dollars (\$60,000,000) total for eligible generation plant costs deducted or claimed pursuant to this section or Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

D. Deductions taken pursuant to this section shall be reported separately on a form approved by the department. The nontaxable transaction certificates used to obtain tax-deductible tangible personal property or services shall display clearly a notice to the taxpayer that the deduction shall be reported separately from any other deductions claimed from gross receipts. A taxpayer deducting eligible generation plant costs from the costs on which compensating tax is imposed shall report those eligible generation plant costs that are being deducted.

E. The deductions allowed for a qualified generating facility pursuant to this section shall be available for a ten-year period from the year development of the qualified generating facility begins and expenditures are made for which nontaxable transaction certificates authorized pursuant to this section are submitted to sellers for eligible generation plant costs or deductions from the costs on which compensating tax are calculated are first taken for eligible generation plant costs.

F. An entity that holds an interest in a qualified generating facility may request a certificate of eligibility from the department of environment to enable the requester to obtain a nontaxable transaction certificate for the advanced energy deduction. The department of environment shall:

(1) determine if the facility is a qualified generating facility;

(2) require that the requester provide the department of environment with the information necessary to assess whether the requester's facility meets the criteria to be a qualified generating facility;

(3) issue a certificate from sequentially numbered certificates to the requester stating that the facility is or is not a qualified generating facility within one hundred eighty days after receiving all information necessary to make a determination;

(4) issue:

(a) rules governing the procedures for administering the provisions of this subsection; and

(b) a schedule of fees in which no fee exceeds one hundred fifty thousand dollars (\$150,000);

(5) deposit fees collected pursuant to this subsection in the state air quality permit fund created pursuant to Section 74-2-15 NMSA 1978; and

(6) report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the advanced energy deduction, including the identity of qualified generating facilities, the energy production means used, the amount of emissions identified in this section

reduced and removed by those qualified generating facilities and whether any requests for certificates of eligibility could not be approved due to program limits.

G. If the department of environment issues a certificate of eligibility to a taxpayer stating that the taxpayer holds an interest in a qualified generating facility and the taxpayer does not sequester or control carbon dioxide emissions to the extent required by this section by the later of January 1, 2017 or eighteen months after the commercial operation date of the qualified generating facility, the taxpayer's certification as a qualified generating facility shall be revoked by the department of environment and the taxpayer shall repay to the state tax deductions granted pursuant to this section; provided that if the taxpayer demonstrates to the department of environment that the taxpayer made every effort to sequester or control carbon dioxide emissions to the extent feasible and the facility's inability to meet the sequestration requirements of a qualified generating facility was beyond the facility's control, in which case the department of environment shall determine, after a public hearing, the amount of tax deduction that should be repaid to the state. The department of environment, in its determination, shall consider the environmental performance of the facility and the extent to which the inability to meet the sequestration requirements of a qualified generating facility was in the control of the taxpayer. The repayment as determined by the department of environment shall be paid within one hundred eighty days following a final order by the department of environment.

H. The advanced energy deduction allowed pursuant to this section shall not be claimed for the same qualified expenses for which a taxpayer claims a credit pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978 or a deduction pursuant to Section 7-9-54.3 NMSA 1978.

I. As used in this section:

(1) "coal-based electric generating facility" means a new or repowered generating facility and an associated coal gasification facility, if any, that uses coal to generate electricity and that meets the following specifications:

(a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulate in the flue gas;

(b) removes the greater of: 1) what is achievable with the best available control technology; or 2) ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility, no more than

one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the coal-based electric generating facility; and

(f) does not exceed a name-plate capacity of seven hundred net megawatts;

(2) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

(3) "entity" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other association or a gas, water or electric utility owned or operated by a county or municipality;

(4) "geothermal electric generating facility" means a facility with a name-plate capacity of one megawatt or more that uses geothermal energy to generate electricity, including a facility that captures and provides geothermal energy to a preexisting electric generating facility using other fuels in part;

(5) "interest in a qualified generating facility" means title to a qualified generating facility; a lessee's interest in a qualified generating facility; and a county or municipality's interest in a qualified generating facility when the county or municipality issues an industrial revenue bond for construction of the qualified generating facility;

(6) "name-plate capacity" means the maximum rated output of the facility measured as alternating current or the equivalent direct current measurement;

(7) "qualified generating facility" means a facility that begins construction not later than December 31, 2015 and is:

(a) a solar thermal electric generating facility that begins construction on or after July 1, 2010 and that may include an associated renewable energy storage facility;

(b) a solar photovoltaic electric generating facility that begins construction on or after July 1, 2010 and that may include an associated renewable energy storage facility;

(c) a geothermal electric generating facility that begins construction on or after July 1, 2010;

(d) a recycled energy project if that facility begins construction on or after July 1, 2010; or

(e) a new or repowered coal-based electric generating facility and an associated coal gasification facility;

(8) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the exhaust stacks or pipes to electricity without combustion of additional fossil fuel;

(9) "sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coalbed methane or natural gas recovery techniques;

(10) "solar photovoltaic electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar photovoltaic energy to generate electricity; and

(11) "solar thermal electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar thermal energy to generate electricity, including a facility that captures and provides solar thermal energy to a preexisting electric generating facility using other fuels in part."

Chapter 78 Section 2 Laws 2010

Section 2. Section 7-9-54.3 NMSA 1978 (being Laws 2002, Chapter 37, Section 8) is amended to read:

"7-9-54.3. DEDUCTION--GROSS RECEIPTS TAX--WIND AND SOLAR GENERATION EQUIPMENT--SALES TO GOVERNMENTS.--

A. Receipts from selling wind generation equipment or solar generation equipment to a government for the purpose of installing a wind or solar electric generation facility may be deducted from gross receipts.

B. The deduction allowed pursuant to this section shall not be claimed for receipts from an expenditure for which a taxpayer claims a credit pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

C. As used in this section:

(1) "government" means the United States or the state or a governmental unit or a subdivision, agency, department or instrumentality of the federal government or the state;

(2) "related equipment" means transformers, circuit breakers and switching and metering equipment used to connect a wind or solar electric generation plant to the electric grid;

(3) "solar generation equipment" means solar thermal energy collection, concentration and heat transfer and conversion equipment; solar tracking hardware and software; photovoltaic panels and inverters; support structures; turbines and associated electrical generating equipment used to generate electricity from solar thermal energy; and related equipment; and

(4) "wind generation equipment" means wind generation turbines, blades, nacelles, rotors and supporting structures used to generate electricity from wind and related equipment."

Chapter 78 Section 3 Laws 2010

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

HENRC/House Bills 261 & 277, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 79

AN ACT

MAKING AN APPROPRIATION FOR DEVELOPMENT TRAINING; DECLARING AN EMERGENCY.

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

Chapter 79 Section 1 Laws 2010

Section 1. APPROPRIATION.--Five million dollars (\$5,000,000) is appropriated from the general fund to the development training fund for expenditure in fiscal years 2010 and 2011 for a development training program providing classroom and in-plant training to furnish qualified human resources for certain new or expanding industries and businesses in the state. Any unexpended or unencumbered balance remaining at the end of fiscal year 2011 shall revert to the general fund.

Chapter 79 Section 2 Laws 2010

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

House Bill 8, aa, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 80

AN ACT

RELATING TO PUBLIC ASSISTANCE; PROVIDING PROCEDURES FOR THE HUMAN SERVICES DEPARTMENT WHEN COMPENSATING CERTAIN CONTRACTORS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 80 Section 1 Laws 2010

Section 1. A new section of Chapter 27, Article 2 NMSA 1978 is enacted to read:

"COMPENSATION UNDER CONTINGENT FEE CONTRACTS--SUSPENSE FUND CREATED.--

A. For the purpose of making disbursements and distributions pursuant to this section, the "human services department reimbursement suspense fund" is created in the state treasury.

B. When pursuing a claim arising under Section 27-2-23 or 27-2-28 NMSA 1978, in addition to other available alternatives, the department may contract with a person to represent the department on a contingent fee basis if the contract:

(1) is approved by the attorney general;

(2) provides that all amounts received by the contractor as satisfaction of the claim shall be transferred to the department and deposited into the human services department reimbursement suspense fund to the credit of the department; and

(3) provides that, upon the direction of the secretary of human services, the compensation due to the contractor shall be disbursed from the suspense fund to the contractor.

C. After a disbursement to a contractor pursuant to Paragraph (3) of Subsection B of this section, the balance of each deposit into the human services department reimbursement suspense fund shall be distributed to the general fund and shall be appropriated to the department for the purpose of reimbursing the department for the public assistance from which the claim arose and, if required, for reimbursing the federal government."

Chapter 80 Section 2 Laws 2010

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

House Bill 109, aa, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 81

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PREVENTING A NEGATIVE CONSUMER PRICE INDEX ADJUSTMENT FROM REDUCING A MEMBER'S CURRENT BENEFIT.

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

Chapter 81 Section 1 Laws 2010

Section 1. Section 22-11-31 NMSA 1978 (being Laws 1979, Chapter 333, Section 2, as amended) is amended to read:

"22-11-31. COST-OF-LIVING ADJUSTMENT--ADDITIONAL CONTRIBUTIONS.-

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A. For the purposes of this section:

(1) "adjustment factor" means a multiplicative factor computed to provide an annuity adjustment pursuant to the provisions of Subsection B of this section;

(2) "annuity" means any benefit payable under the Educational Retirement Act or the Public Employees Retirement Reciprocity Act as a retirement benefit, disability benefit or survivor benefit;

(3) "calendar year" means the full twelve months beginning January 1 and ending December 31;

(4) "consumer price index" means the average of the monthly consumer price indexes for a calendar year for the entire United States for all items as published by the United States department of labor;

(5) "next preceding calendar year" means the full calendar year immediately prior to the preceding calendar year; and

(6) "preceding calendar year" means the full calendar year preceding the July 1 on which a benefit is to be adjusted.

B. On or after July 1, 1984, each annuity shall be adjusted annually and cumulatively commencing on July 1 of the year in which a member attains the age of sixty-five or on July 1 following the year a member retires, whichever is later. The annuity shall be adjusted by applying an adjustment factor that results in an adjustment equal to one-half of the percentage increase of the consumer price index between the next preceding calendar year and the preceding calendar year, except that the adjustment shall not exceed four percent, in absolute value, nor be less than two percent, in absolute value. In the event that the percentage increase of the consumer price index is less than two percent, in absolute value, the adjustment factor shall be the same as the percentage increase of the consumer price index. Annuities shall not be decreased in the event that there is a decrease in the consumer price index between the next preceding calendar year and the preceding calendar year.

C. A retired member whose benefit is subject to adjustment under the provisions of the Educational Retirement Act in effect prior to July 1, 1984 shall have the member's annuity readjusted annually and cumulatively under the provisions of that act in effect prior to July 1, 1984 until July 1 of the year in which the member attains the age of sixty-five, when the member shall have the annuity readjusted annually and cumulatively under the provisions of this section. A member who retires after attaining the age of sixty-five shall have the member's annuity adjusted annually and cumulatively commencing on July 1 of the year following the member's retirement.

D. A retired member who returns to work shall be subject to the provisions of this section as they exist at the time of the member's final retirement.

E. Benefits of a member who is on a disability status in accordance with Section 22-11-35 NMSA 1978 or a member who the board certifies was disabled at regular retirement shall be adjusted in accordance with Subsections B and C of this section, except that the benefits shall be adjusted annually and cumulatively commencing on July 1 of the third full year following the year in which the member was approved by the board for disability or retirement.

F. The board shall adjust the benefits of each person receiving an annuity as of June 30, 1999. The adjustment shall be made on July 1, 1999 on the basis of an increase of two dollars (\$2.00) per month for each year since the member's last retirement plus an increase of one dollar (\$1.00) per month for each year of credited service at the time of the last retirement."

Chapter 81 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

House Bill 239

Approved March 8, 2010

LAWS 2010, CHAPTER 82

AN ACT

RELATING TO COUNTIES; PROVIDING FOR THE USE OF AN INCREMENT OF THE COUNTY GROSS RECEIPTS TAX TO BE USED TO FINANCE COUNTY PROJECTS.

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

Chapter 82 Section 1 Laws 2010

Section 1. Section 4-62-1 NMSA 1978 (being Laws 1992, Chapter 95, Section 1, as amended) is amended to read:

"4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 4, Article 62 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections B through M of this section.

B. Gross receipts tax revenue bonds may be issued for one or more of the following purposes:

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;

(2) acquiring or improving county or public parking lots, structures or facilities or any combination of the foregoing;

(3) purchasing, acquiring or rehabilitating firefighting equipment or any combination of the foregoing;

(4) acquiring, extending, enlarging, bettering, repairing or otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants, water utilities or other water, wastewater or related facilities, including but not limited to the acquisition of rights of way and water and water rights, or any combination of the foregoing;

(5) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges or any combination of the foregoing or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges or any combination of the foregoing; provided that any of the foregoing improvements may include the acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping airport facilities or any combination of the foregoing, including without limitation the acquisition of land, easements or rights of way;

(7) purchasing or otherwise acquiring or clearing land or purchasing, otherwise acquiring and beautifying land for open space;

(8) acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational buildings or other public recreational facilities or any combination of the foregoing;

(9) acquiring, constructing, extending, enlarging, bettering, repairing or otherwise improving or maintaining solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills, solid waste facilities or any combination of the foregoing; or

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving public transit systems or any regional transit systems or facilities.

A county may pledge irrevocably any or all of the revenue from the first one-eighth increment, the third one-eighth increment and the one-sixteenth increment of the county gross receipts tax and any increment of the county infrastructure gross receipts tax and county capital outlay gross receipts tax for payment of principal and interest due in connection with, and other expenses related to, gross receipts tax revenue bonds for any of the purposes authorized in this section or specific purposes or for any area of county government services. If the revenue from the first one-eighth increment, the third one-eighth increment or the one-sixteenth increment of the county gross receipts tax or any increment of the county infrastructure gross receipts tax or county capital outlay gross receipts tax is pledged for payment of principal and interest as authorized by this subsection, the pledge shall require the revenues received from that increment of the county gross receipts tax or any increment of the county infrastructure gross receipts tax or county capital outlay gross receipts tax to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, money remaining in the special bond fund after the annual obligations for the bonds are fully met may be transferred to any other fund of the county.

Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the county may appoint a commercial bank trust department to act as trustee of the proceeds of the tax and to administer the payment of principal of and interest on the bonds.

C. Fire protection revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any independent fire district project or facilities, including where applicable purchasing, otherwise acquiring or improving the ground for the project, or any combination of such purposes. A county may pledge irrevocably any or all of the county fire protection excise tax revenue for payment of principal and interest due in connection with, and other expenses related to, fire protection revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "fire protection revenue bonds".

D. Environmental revenue bonds may be issued for the acquisition and construction of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities. A county may pledge irrevocably any or all of the county environmental services gross receipts tax revenue for payment of principal and interest due in connection with, and other expenses related to, environmental revenue bonds.

These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "environmental revenue bonds".

E. Gasoline tax revenue bonds may be issued for the acquisition of rights of way for and the construction, reconstruction, resurfacing, maintenance, repair or other improvement of county roads and bridges. A county may pledge irrevocably any or all of the county gasoline tax revenue for payment of principal and interest due in connection with, and other expenses related to, county gasoline tax revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "gasoline tax revenue bonds".

F. Utility revenue bonds or joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. A county may pledge irrevocably any or all of the net revenues from the operation of the utility or joint utility for which the particular utility or joint utility bonds are issued to the payment of principal and interest due in connection with, and other expenses related to, utility or joint utility revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "utility revenue bonds" or "joint utility revenue bonds".

G. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any revenue-producing project, including as applicable purchasing, otherwise acquiring or improving the ground therefor and including but not limited to acquiring and improving parking lots, or may be issued for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project shall not be pledged to the project revenue bonds issued for any other revenue-producing project that is clearly unrelated in nature; but nothing in this subsection prevents the pledge to any of the project revenue bonds of the revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. As used in Chapter 4, Article 62 NMSA 1978:

(1) "project revenue bonds" means the bonds authorized in this subsection; and

(2) "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to this subsection.

H. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including where applicable purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the county that facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district revenue bonds.

I. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The county may pledge irrevocably any or all of the revenues received by the county from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

J. Hospital emergency gross receipts tax revenue bonds may be issued for acquiring, equipping, remodeling or improving a county hospital or county health facility. A county may pledge irrevocably to the payment of the interest on and principal of the hospital emergency gross receipts tax revenue bonds any or all of the revenues received by the county from a county hospital emergency gross receipts tax imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to payment of bonds or a loan for acquiring, equipping, remodeling or improving a county hospital or county health facility.

K. Economic development gross receipts tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. A county may pledge irrevocably any or all of the county infrastructure gross receipts tax to the payment of the interest on and principal of the economic development gross receipts tax revenue bonds for the purpose authorized in this subsection.

L. County education gross receipts tax revenue bonds may be issued for public school or off-campus instruction program capital projects as authorized in Section 7-20E-20 NMSA 1978. A county may pledge irrevocably any or all of the county education gross receipts tax revenue to the payment of interest on and principal of the county education gross receipts tax revenue bonds for the purpose authorized in this section.

M. PILT revenue bonds may be issued by a county to repay all or part of the principal and interest of an outstanding loan owed by the county to the New Mexico finance authority. A county may pledge irrevocably all or part of PILT revenue to the payment of principal of and interest on new loans or preexisting loans provided by the New Mexico finance authority to finance a public project as "public project" is defined in Subsection E of Section 6-21-3 NMSA 1978.

N. Except for the purpose of refunding previous revenue bond issues, no county may sell revenue bonds payable from pledged revenue after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of

Section 4-62-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue.

O. No bonds may be issued by a county, other than an H class county, a class B county as defined in Section 4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated by the public regulation commission pursuant to the Public Utility Act and the issuance of the bonds is approved by the commission. For purposes of Chapter 4, Article 62 NMSA 1978, a "utility" includes but is not limited to a water, wastewater, sewer, gas or electric utility or joint utility serving the public. H class counties shall obtain public regulation commission approvals required by

Section 3-23-3 NMSA 1978.

P. Any law that imposes or authorizes the imposition of a county gross receipts tax, a county environmental services gross receipts tax, a county fire protection excise tax, a county infrastructure gross receipts tax, the county education gross receipts tax, a county capital outlay gross receipts tax, the gasoline tax or the county hospital emergency gross receipts tax, or that affects any of those taxes, shall not be repealed or amended in such a manner as to impair outstanding revenue bonds that are issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may be secured by a pledge of those taxes unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

Q. As used in this section:

(1) "county infrastructure gross receipts tax revenue" means the revenue from the county infrastructure gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(2) "county capital outlay gross receipts tax revenue" means the revenue from the county capital outlay gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(3) "county education gross receipts tax revenue" means the revenue from the county education gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(4) "county environmental services gross receipts tax revenue" means the revenue from the county environmental services gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(5) "county fire protection excise tax revenue" means the revenue from the county fire protection excise tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(6) "county gross receipts tax revenue" means the revenue attributable to the first one-eighth increment, the third one-eighth increment and the one-sixteenth increment of the county gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978 and any distribution related to the first one-eighth increment made pursuant to Section 7-1-6.16 NMSA 1978;

(7) "gasoline tax revenue" means the revenue from that portion of the gasoline tax distributed to the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;

(8) "PILT revenue" means revenue received by the county from the federal government as payments in lieu of taxes; and

(9) "public building" includes but is not limited to fire stations, police buildings, county or regional jails, county or regional juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, courthouses and garages for housing, repairing and maintaining county vehicles and equipment.

R. As used in Chapter 4, Article 62 NMSA 1978, the term "bond" means any obligation of a county issued under Chapter 4, Article 62 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a county to make payments."

Chapter 82 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 162

Approved March 8, 2010

LAWS 2010, CHAPTER 83

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE NATURAL HERITAGE CONSERVATION ACT; PROVIDING POWERS AND DUTIES; CREATING A FUND; PROVIDING FOR THE ACQUISITION OF CONSERVATION AND AGRICULTURAL EASEMENTS AND FOR RESTORATION PROJECTS; PROHIBITING THE ACQUISITION OF EASEMENT INTERESTS OR OTHER RIGHTS OF ACCESS THROUGH EMINENT DOMAIN OR OTHER CONDEMNATION PROCESS; MAKING AN APPROPRIATION.

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

Chapter 83 Section 1 Laws 2010

Section 1. SHORT TITLE.--This act may be cited as the "Natural Heritage Conservation Act".

Chapter 83 Section 2 Laws 2010

Section 2. PURPOSE.--The purpose of the Natural Heritage Conservation Act is to protect the state's natural heritage, customs and culture by funding conservation and agricultural easements and by funding land restoration to protect the land and water available for forests and watersheds, natural areas, wildlife and wildlife habitat, agricultural production on working farms and ranches, outdoor recreation and trails and land and habitat restoration and management.

Chapter 83 Section 3 Laws 2010

Section 3. DEFINITIONS.--As used in the Natural Heritage Conservation Act:

- A. "committee" means the natural lands protection committee;
- B. "conservation entity" means a private nonprofit charitable corporation or trust authorized to do business in New Mexico that has tax-exempt status as a public charity pursuant to the federal Internal Revenue Code of 1986 and that has the power to acquire, hold or maintain land or interests in land;
- C. "conservation project" means the acquisition of conservation or agricultural easements from a willing seller or a land restoration project;

D. "department" means the energy, minerals and natural resources department;

E. "fund" means the natural heritage conservation fund; and

F. "qualified entity" means a state agency, a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, a political subdivision of the state or, for conservation projects wholly within New Mexico, an Indian tribe or pueblo.

Chapter 83 Section 4 Laws 2010

Section 4. DEPARTMENT--POWERS AND DUTIES.--

A. The department may:

(1) after consultation with landowners, conservationists and other interested persons, adopt and promulgate rules to carry out the provisions of the Natural Heritage Conservation Act;

(2) enter into contracts;

(3) enter into joint powers agreements pursuant to the Joint Powers Agreements Act to carry out the provisions of the Natural Heritage Conservation Act;

(4) make grants to qualified entities for conservation projects;

(5) apply for and receive in the name of the department, any public or private funds available to the department to carry out the purposes of the Natural Heritage Conservation Act;

(6) acquire conservation or agricultural easements by itself or with a conservation entity or qualified entity; and

(7) do all other things necessary or appropriate to carry out the provisions of the Natural Heritage Conservation Act.

B. The department shall:

(1) establish a competitive application process for grants from the fund; and

(2) establish criteria and priorities for funding conservation projects.

Chapter 83 Section 5 Laws 2010

Section 5. FUND CREATED--PURPOSE--EXPENDITURES.--The "natural heritage conservation fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations, bequests, income from investment of the fund and any other money credited to the fund. The fund shall be administered by the department, and money in the fund is appropriated to the department to fund conservation projects. Expenditures from the fund shall be by warrants of the secretary of finance and administration upon vouchers signed by the secretary or the secretary's authorized representative.

Chapter 83 Section 6 Laws 2010

Section 6. CONSERVATION PROJECTS--PROCEDURES.--

A. All conservation projects shall be maintained to protect the public health and welfare and shall be for:

- (1) preserving and conserving water quality and quantity;
- (2) protecting agricultural production on working farms, ranches and other agricultural lands;
- (3) protecting and restoring New Mexico's forests and watersheds;
- (4) conserving wildlife habitat;
- (5) maintaining natural areas;
- (6) providing outdoor recreation opportunities, including hunting and fishing; or
- (7) preserving cultural and historic sites with natural resource heritage value.

B. The department, working with the committee, landowners, conservationists and other interested persons, shall establish criteria for evaluating possible conservation projects. Criteria shall include:

- (1) the degree to which the conservation project serves the purposes of the Natural Heritage Conservation Act;
- (2) the amount of matching financial support for the conservation project from sources other than the state;
- (3) the technical qualifications of the applicant and its ability to complete and maintain the proposed conservation project;

(4) the degree to which the conservation project fosters and integrates with existing conservation plans, strategies and initiatives;

(5) the potential for benefits at landscape and ecosystem scale;

(6) the potential for improved public access for outdoor recreation opportunities, including hunting and fishing;

(7) the potential for economic benefits of the completed conservation project; and

(8) other measurements and requirements required by the department and the committee.

C. The committee shall receive applications for conservation projects and shall evaluate them against the department's criteria. The committee may reject any incomplete applications or applications that do not meet the established criteria. After review, the committee shall make its recommendations on all evaluated conservation projects to the department.

~~[D. The department shall make recommendations to the legislature from the committee's recommendation for approval.]~~ *LINE-ITEM VETO*

Chapter 83 Section 7 Laws 2010

Section 7. CONSERVATION PROJECTS--PUBLIC-PRIVATE PROJECTS.--

A. The department may acquire conservation or agricultural easements and hold them in the name of the state.

B. When approving a conservation project that is the acquisition of a conservation or agricultural easement by a conservation entity, the department shall require the conservation entity to:

(1) acquire no less than ten percent of the easement, and title to the easement shall be held by the conservation entity and a qualified entity as cotenants having undivided interests in proportion to each one's share of the acquisition; and

(2) submit a plan for the management of lands for which the conservation entity and the qualified entity are responsible. The department, in consultation with the committee, shall review the plan to ensure compliance with the purposes of the Natural Heritage Conservation Act.

C. When approving a conservation project that is for land restoration by a conservation entity, the department shall require that the conservation entity provide at least ten percent of the cost of the conservation project.

Chapter 83 Section 8 Laws 2010

Section 8. CONSERVATION PROJECTS--LIMITATIONS.--The department may acquire or receive by gift or bequest conservation or agricultural easement interests in real property to advance the purposes of the Natural Heritage Conservation Act. No easement interests, water rights or other rights of access shall be acquired pursuant to the Natural Heritage Conservation Act through exercise of the state's power of eminent domain or any other condemnation process. Land adjacent to any land subject to a conservation or agricultural easement that was acquired pursuant to the Natural Heritage Conservation Act shall not be subjected to any rules or restrictions as a result of such easement acquisition.

Chapter 83 Section 9 Laws 2010

Section 9. ANNUAL REPORT TO THE GOVERNOR AND THE LEGISLATURE.-
-The department and the committee shall report annually to the governor and the legislature on the status of applications and funded conservation projects.

SFC/Senate Bill 186, aa, partial veto

Approved March 8, 2010

LAWS 2010, CHAPTER 84

AN ACT

RELATING TO TAXATION; CREATING A TAX CREDIT THAT CAN BE TAKEN PURSUANT TO THE INCOME TAX ACT OR THE CORPORATE INCOME AND FRANCHISE TAX ACT FOR THE COSTS OF TRANSPORTING DAIRY OR FEEDLOT WASTE TO A FACILITY FOR USE IN GENERATING ELECTRICITY OR MAKING BIOCRUDE OR OTHER LIQUID OR GASEOUS FUEL.

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

Chapter 84 Section 1 Laws 2010

Section 1. A new section of the Income Tax Act is enacted to read:

"AGRICULTURAL BIOMASS INCOME TAX CREDIT.--

A. A taxpayer who owns a dairy or feedlot and who files an individual New Mexico income tax return for a taxable year beginning on or after January 1, 2011 and ending prior to January 1, 2020 may apply for, and the department may allow, a tax

credit equal to five dollars (\$5.00) per wet ton of agricultural biomass transported from the taxpayer's dairy or feedlot to a facility that uses agricultural biomass to generate electricity or make biocrude or other liquid or gaseous fuel for commercial use. The tax credit created in this section may be referred to as the "agricultural biomass income tax credit".

B. If the requirements of this section have been complied with, the department shall issue to the taxpayer a document granting an agricultural biomass income tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the taxpayer with that taxpayer's income tax return or may be sold, exchanged or otherwise transferred to another taxpayer. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

C. Any portion of the agricultural biomass income tax credit that remains unused in a taxable year may be carried forward for a maximum of four consecutive taxable years following the taxable year in which the credit originates until fully expended.

D. A taxpayer who otherwise qualifies and claims an agricultural biomass income tax credit with respect to a dairy or feedlot owned by a partnership or other business association of which the taxpayer is a member may claim the credit only in proportion to that taxpayer's interest in the partnership or business association. The total agricultural biomass income tax credits claimed in the aggregate with respect to the same dairy or feedlot by all members of the partnership or business association shall not exceed the amount of the credit that could have been claimed by a single owner of the dairy or feedlot.

E. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

F. Prior to July 1, 2011, the energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of transportation of agricultural biomass to a qualified facility that uses agricultural biomass to generate electricity or make biocrude or other liquid or gaseous fuel for commercial use for purposes of obtaining an agricultural biomass income tax credit. The rules may be modified as determined necessary by the energy, minerals and natural resources department to determine accurate recording of the quantity of agricultural biomass transported and used for the purpose allowable in this section.

G. A taxpayer who claims an agricultural biomass income tax credit shall not also claim an agricultural biomass corporate income tax credit for transportation of the same agricultural biomass on which the claim for that agricultural biomass income tax credit is based.

H. The department shall limit the annual combined total of all agricultural biomass income tax credits and all agricultural biomass corporate income tax credits allowed to a maximum of five million dollars (\$5,000,000). Applications for the credit shall be considered in the order received by the department.

I. As used in this section:

(1) "agricultural biomass" means wet manure meeting specifications established by the energy, minerals and natural resources department from either a dairy or feedlot commercial operation;

(2) "biocrude" means a nonfossil form of energy that can be transported and refined using existing petroleum refining facilities and that is made from biologically derived feedstocks and other agricultural biomass;

(3) "feedlot" means an operation that fattens livestock for market;
and

(4) "dairy" means a facility that raises livestock for milk production."

Chapter 84 Section 2 Laws 2010

Section 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"AGRICULTURAL BIOMASS CORPORATE INCOME TAX CREDIT.--

A. A taxpayer that files a New Mexico corporate income tax return for a taxable year beginning on or after January 1, 2011 and ending prior to January 1, 2020 for a dairy or feedlot owned by the taxpayer may claim against the taxpayer's corporate income and franchise tax liability, and the department may allow, a tax credit equal to five dollars (\$5.00) per wet ton of agricultural biomass transported from the taxpayer's dairy or feedlot to a facility that uses agricultural biomass to generate electricity or make biocrude or other liquid or gaseous fuel for commercial use. The credit provided in this section may be referred to as the "agricultural biomass corporate income tax credit".

B. If the requirements of this section have been complied with, the department shall issue to the taxpayer a document granting an agricultural biomass corporate income tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the taxpayer with that taxpayer's corporate income tax return or may be sold, exchanged or otherwise transferred to another taxpayer. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

C. A portion of the agricultural biomass corporate income tax credit that remains unused in a taxable year may be carried forward for a maximum of four consecutive taxable years following the taxable year in which the credit originates until the credit is fully expended.

D. Prior to July 1, 2011, the energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of transportation of agricultural biomass to a qualified facility that uses agricultural biomass to generate electricity or make biocrude or other liquid or gaseous fuel for commercial use for purposes of obtaining an agricultural biomass corporate income tax credit. The rules may be modified as determined necessary by the energy, minerals and natural resources department to determine accurate recording of the quantity of agricultural biomass transported and used for the purpose allowable in this section.

E. A taxpayer that claims an agricultural biomass corporate income tax credit shall not also claim an agricultural biomass income tax credit for transportation of the same agricultural biomass on which the claim for that agricultural biomass income tax credit is based.

F. The department shall limit the annual combined total of all agricultural biomass income tax credits and all agricultural biomass corporate income tax credits allowed to a maximum of five million dollars (\$5,000,000). Applications for the credit shall be considered in the order received by the department.

G. As used in this section:

(1) "agricultural biomass" means wet manure meeting specifications established by the energy, minerals and natural resources department from either a dairy or feedlot commercial operation;

(2) "biocrude" means a nonfossil form of energy that can be transported and refined using existing petroleum refining facilities and that is made from biologically derived feedstocks and other agricultural biomass;

(3) "feedlot" means an operation that fattens livestock for market;
and

(4) "dairy" means a facility that raises livestock for milk production."

Chapter 84 Section 3 Laws 2010

Section 3. APPLICABILITY.--This act is applicable to taxable years beginning on or after January 1, 2011 and ending prior to January 1, 2020.

House Bill 171

Approved March 8, 2010

LAWS 2010, CHAPTER 85

AN ACT

RELATING TO DOMESTIC ABUSE; NARROWING THE DEFINITION OF "HOUSEHOLD MEMBER" IN THE CRIMES AGAINST HOUSEHOLD MEMBERS ACT AND THE FAMILY VIOLENCE PROTECTION ACT.

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

Chapter 85 Section 1 Laws 2010

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; and

B. "continuing personal relationship" means a dating or intimate relationship."

Chapter 85 Section 2 Laws 2010

Section 2. Section 40-13-2 NMSA 1978 (being Laws 1987, Chapter 286, Section 2, as amended) is amended to read:

"40-13-2. DEFINITIONS.--As used in the Family Violence Protection Act:

A. "continuing personal relationship" means a dating or intimate relationship;

B. "co-parents" means persons who have a child in common, regardless of whether they have been married or have lived together at any time;

C. "court" means the district court of the judicial district where an alleged victim of domestic abuse resides or is found;

D. "domestic abuse":

(1) means an incident of stalking or sexual assault whether committed by a household member or not;

(2) means an incident by a household member against another household member consisting of or resulting in:

(a) physical harm;

(b) severe emotional distress;

(c) bodily injury or assault;

(d) a threat causing imminent fear of bodily injury by any household member;

(e) criminal trespass;

(f) criminal damage to property;

(g) repeatedly driving by a residence or work place;

(h) telephone harassment;

(i) harassment; or

(j) 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;
and

I. "restrained party" means a person who is restrained by an order of protection."

Chapter 85 Section 3 Laws 2010

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 2

Approved March 8, 2010

LAWS 2010, CHAPTER 86

AN ACT

RELATING TO DOMESTIC VIOLENCE; CREATING THE NEW MEXICO DOMESTIC VIOLENCE LEADERSHIP COMMISSION.

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

Chapter 86 Section 1 Laws 2010

Section 1. NEW MEXICO DOMESTIC VIOLENCE LEADERSHIP COMMISSION--MEMBERSHIP--DUTIES.--

A. The "New Mexico domestic violence leadership commission" is created and is administratively attached to the children, youth and families department.

B. The New Mexico domestic violence leadership commission shall consist of twenty-six members appointed by the governor, unless otherwise specified, including:

(1) a representative from the office of the governor;

(2) the attorney general or the attorney general's designee;

- (3) a state senator appointed by the senate president pro tempore;
- (4) a state representative appointed by the speaker of the house of representatives;
- (5) a representative from the department of public safety;
- (6) the secretary of children, youth and families or the secretary's designee;
- (7) a representative from the judiciary;
- (8) the president of the New Mexico district attorney's association or the president's designee;
- (9) the chief public defender or the chief public defender's designee;
- (10) a representative from the corrections department;
- (11) a representative from a law enforcement agency;
- (12) a representative from New Mexico legal aid;
- (13) a representative from the department of health;
- (14) a representative from the New Mexico coalition against domestic violence or an equivalent organization;
- (15) a representative from the southwest women's law center or an equivalent organization;
- (16) a representative from the coalition to stop violence against native women or an equivalent organization;
- (17) a representative from the crime victims reparation commission;
- (18) the director of the New Mexico interpersonal violence data central repository;
- (19) a representative from the New Mexico intimate partner violence death review team;
- (20) a representative from the aging and long-term services department;

(21) a community representative;

(22) two rural domestic violence service providers;

(23) a domestic violence survivor nominated by the New Mexico coalition against domestic violence;

(24) a representative from a children's advocacy organization; and

(25) a representative from a gay and lesbian organization.

C. The appointed members of the New Mexico domestic violence leadership commission shall serve at the pleasure of the governor, and the members' appointments shall be reviewed at the commencement of each gubernatorial term. The governor shall designate one member as the chair, and the position of the chair shall be limited by a term of two years.

D. The New Mexico domestic violence leadership commission shall meet, pursuant to the Open Meetings Act, at the call of the chair at least six times annually. For the purposes of conducting business, a majority of the members of the commission constitutes a quorum.

E. Members of the New Mexico domestic violence leadership commission shall not be paid, but shall receive per diem and mileage as provided in the Per Diem and Mileage Act.

F. The New Mexico domestic violence leadership commission shall:

(1) identify domestic violence services that are lacking or in need of improvement and provide recommendations to the secretary of children, youth and families and the governor to enhance the quality and efficiency of services statewide;

(2) develop strategies for addressing issues of domestic violence and raising public awareness;

(3) study possible inequities in the treatment and disposition of males involved in domestic violence;

(4) review laws, regulations and policies related to domestic violence to assess their effectiveness and recommend changes; and

(5) report annually before October 1 to an appropriate legislative interim committee and the governor on domestic violence policy issues.

Senate Bill 26, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 87

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CREATING GUIDELINES FOR NEW ECONOMIC DEVELOPMENT TAX INCENTIVES TO INCREASE ACCOUNTABILITY; REQUIRING THE ECONOMIC DEVELOPMENT DEPARTMENT TO PUBLISH A LIST OF TAXPAYERS USING ECONOMIC DEVELOPMENT TAX INCENTIVES.

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

Chapter 87 Section 1 Laws 2010

Section 1. ECONOMIC DEVELOPMENT TAX INCENTIVES--GUIDELINES.--

A. An economic development tax incentive shall include in the enabling statute the following minimum provisions:

- (1) a statement of purpose;
- (2) the designation of a responsible agency to establish measurable policy goals, track state expenditures, quantify the state's return on investment and report regularly to the interim revenue stabilization and tax policy committee and the legislative finance committee;
- (3) a requirement that the economic development department track job creation;
- (4) specific standards for the taxpayer to qualify for the incentive;
- (5) reporting requirements for the taxpayer;
- (6) a description of the financial obligation of the taxpayer if the specific standards are not met; and
- (7) a mandatory review of the incentive no more than every seven years.

B. The economic development department shall publish annually an aggregate list of the economic development tax incentives used by each taxpayer.

C. For the purposes of this section, "economic development tax incentive" means a credit, deduction, rebate, exemption or other tax benefit for the primary purpose of promoting economic development or offering an advantage to a particular industry or type of business to do business in

New Mexico.

D. Nothing in this section shall be construed to conflict with current confidentiality rules or statutes.

Senate Bill 47, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 88

AN ACT

RELATING TO LONG-TERM CARE; AMENDING THE CONTINUING CARE ACT TO PROVIDE FOR GREATER CONSUMER PROTECTION OF RESIDENTS OF CONTINUING CARE COMMUNITIES.

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

Chapter 88 Section 1 Laws 2010

Section 1. Section 24-17-1 NMSA 1978 (being Laws 1985, Chapter 102, Section 1) is amended to read:

"24-17-1. SHORT TITLE.--Chapter 24, Article 17 NMSA 1978 may be cited as the "Continuing Care Act"."

Chapter 88 Section 2 Laws 2010

Section 2. Section 24-17-2 NMSA 1978 (being Laws 1985, Chapter 102, Section 2) is amended to read:

"24-17-2. FINDINGS AND PURPOSE.--

A. The legislature finds that continuing care communities are an important and growing alternative for the provision of long-term residential, social and health maintenance needs for the elderly; however, the legislature also finds that severe

consequences to residents may result when a provider becomes insolvent or unable to provide responsible care.

B. The purpose of the Continuing Care Act is to provide for disclosure and the inclusion of certain information in continuing care contracts in order that residents may make informed decisions concerning continuing care; to provide protection for residents; and to ensure the solvency of communities."

Chapter 88 Section 3 Laws 2010

Section 3. Section 24-17-3 NMSA 1978 (being Laws 1985, Chapter 102, Section 3, as amended) is amended to read:

"24-17-3. DEFINITIONS.--As used in the Continuing Care Act:

A. "affiliate" means a person having a five percent or greater interest in a provider;

B. "community" means a retirement home, retirement community, home for the aged or other place that undertakes to provide continuing care;

C. "continuing care" means furnishing, pursuant to a contract that requires entrance or advance fees and service or periodic fees, independent-living and health or health-related services. Entrance or advanced fees do not include security or damage deposit fees that amount to less than three months' service or periodic fees. These services may be provided in the community, in the resident's independent living unit or in another setting, designated by the continuing care contract, to an individual not related by consanguinity or affinity to the provider furnishing the care. The services include, at a minimum, priority access to a nursing facility or hospital either on site or at a site designated by the continuing care contract;

D. "continuing care contract" means an agreement by a provider to furnish continuing care to a resident;

E. "liquid reserves" means cash or other assets that are available within sixty days to satisfy a community's expenses and that do not include real property or interests in real property;

F. "net operating expenses" means the total costs of operating a community, including taxes and insurance but not including amortization, depreciation or long-term debt service;

G. "person" means an individual, corporation, partnership, trust, association or other legal entity;

H. "priority access to a nursing facility or hospital" means that a nursing facility or hospital services the residents of independent living units or that there is a promise of such health care or health-related services being available in the future;

I. "provider" means the owner or manager of a community that provides, or offers to provide, continuing care;

J. "resident" means, unless otherwise specified, an actual or prospective purchaser of, nominee of or subscriber to a continuing care contract;

K. "type A" agreement means an extensive entrance-fee contract that includes housing, residential services, amenities and unlimited specific health-related services with little or no substantial increase in monthly payments, except to cover normal operating costs and inflation adjustments;

L. "type B" agreement means a modified entrance-fee contract that includes housing, residential services, amenities and a specific amount of health care with no substantial increase in monthly payments, except to cover normal operating costs and inflation adjustments. After the specified amount of health care is used, persons served pay either a discounted rate or the full per diem rates for required health care services; and

M. "unit" means the living quarters that a resident buys, leases or has assigned as part of the continuing care contract."

Chapter 88 Section 4 Laws 2010

Section 4. Section 24-17-4 NMSA 1978 (being Laws 1985, Chapter 102, Section 4, as amended) is amended to read:

"24-17-4. DISCLOSURE.--

A. A provider shall furnish a current annual disclosure statement that meets the requirements set forth in Subsection B of this section and the aging and long-term services department's and attorney general's consumer's guide to continuing care communities to each actual resident and to a prospective resident at least seven days before the provider enters into a continuing care contract with the prospective resident, or prior to the prospective resident's first payment, whichever occurs first. For the purposes of this subsection, the obligation to furnish information to each actual resident shall be deemed satisfied if a copy of the disclosure statement and the consumer's guide is given to the residents' association, if there is one, and a written message has been delivered to each actual resident, stating that personal copies are available upon request.

B. The disclosure statement provided pursuant to Subsection A of this section shall include:

(1) a brief narrative summary of the contents of the disclosure statement written in plain language;

(2) the name and business address of the provider;

(3) if the provider is a partnership, corporation or association, the names, addresses and duties of its officers, directors, trustees, partners or managers;

(4) the name and business address of each of the provider's affiliates;

(5) a statement as to whether the provider or any of its officers, directors, trustees, partners, managers or affiliates, within ten years prior to the date of application:

(a) was convicted of a felony, a crime that if committed in New Mexico would be a felony or any crime having to do with the provision of continuing care;

(b) has been held liable or enjoined in a civil action by final judgment, if the civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property;

(c) had a prior discharge in bankruptcy or was found insolvent in any court action; or

(d) had a state or federal license or permit suspended or revoked or had any state, federal or industry self-regulatory agency commence an action against the provider or any of its officers, directors, trustees, partners, managers or affiliates and the result of such action;

(6) the name and address of any person whose name is required to be provided in the disclosure statement who owns any interest in or receives any remuneration from, either directly or indirectly, any other person providing or expected to provide to the community goods, leases or services with a real or anticipated value of five hundred dollars (\$500) or more and the name and address of the person in which such interest is held. The disclosure shall describe such goods, leases or services and the actual or probable cost to the community or provider and shall describe why such goods, leases or services should not be purchased from an independent entity;

(7) the name and address of any person owning land or property leased to the community and a statement of what land or property is leased;

(8) a statement as to whether the provider is, or is associated with, a religious, charitable or other organization and the extent to which the associate

organization is responsible for the financial and contractual obligations of the provider or community;

(9) the location and description of real property being used or proposed to be used in connection with the community's contracts to furnish care;

(10) a statement as to the community's or corporation's liquid reserves to assure payment of debt obligations and an ongoing ability to provide services to residents. The statement shall also include a description of the community's or corporation's reserves, including a specific explanation as to how the community or corporation intends to comply with the requirements of Section 24-17-6 NMSA 1978;

(11) for communities that provide type A and type B agreements, a summary of an actuarial analysis within the last five years and an annual future-service obligation calculation by an actuary who is a member of the American academy of actuaries and who is experienced in analyzing continuing care communities;

(12) an audited financial statement and an audit report prepared in accordance with generally accepted accounting principles applied on a consistent basis and certified by a certified public accountant, including an income statement or statement of activities, a cash-flow statement or sources and application of funds statement and a balance sheet as of the end of the provider's last fiscal year. The balance sheet should accurately reflect the deferred revenue balance, including entrance fees and any other prepaid services, and should include notes describing the community's long-term obligations and identifying all the holders of mortgages and notes;

(13) a sample copy of the contract used by the provider; and

(14) a list of documents and other information available upon request, including:

(a) a copy of the Continuing Care Act;

(b) if the provider is a corporation, a copy of the articles of incorporation; if the provider is a partnership or other unincorporated association, a copy of the partnership agreement, articles of association or other membership agreement; and if the provider is a trust, a copy of the trust agreement or instruments;

(c) resumes of the provider and officers, directors, trustees, partners or managers;

(d) a copy of lease agreements between the community and any person owning land or property leased to the community;

(e) information concerning the location and description of other properties, both existing and proposed, of the provider in which the provider owns any interest and on which communities are or are intended to be located and the identity of previously owned or operated communities;

(f) a copy of the community's policies and procedures; and

(g) other data, financial statements and pertinent information with respect to the provider or community, or its directors, trustees, members, managers, branches, subsidiaries or affiliates, that a resident requests and that is reasonably necessary in order for the resident to determine the financial status of the provider and community and the management capabilities of the managers and owners, including the most recent audited financial statements of comparable communities owned, managed or developed by the provider or its principal.

C. Each year, within one hundred eighty days after the end of the community's fiscal year, the provider shall furnish to actual residents the disclosure statement as outlined in this section. For purposes of this subsection, the obligation to furnish the required information to residents shall be deemed satisfied if the information is given to the residents' association, if there is one, and a written message has been delivered to each resident, stating that personal copies of the information are available upon request."

Chapter 88 Section 5 Laws 2010

Section 5. Section 24-17-5 NMSA 1978 (being Laws 1985, Chapter 102, Section 5, as amended) is amended to read:

"24-17-5. CONTRACT INFORMATION.--

A. A provider is responsible for ensuring that a continuing care contract is written in clear and understandable language.

B. A continuing care contract shall, at a minimum:

(1) describe the community's admission policies, including age, health status and minimum financial requirements, if any;

(2) describe the health and financial conditions required for a person to continue to be a resident;

(3) describe the circumstances under which the resident will be permitted to remain in the community in the event of financial difficulties of the resident;

(4) list the total consideration paid, including donations, entrance fees, subscription fees, periodic fees and other fees paid or payable; provided, however,

that a provider cannot require a resident to transfer all the resident's assets or the resident's real property to the provider or community as a condition for providing continuing care and the provider shall reserve the right to charge periodic fees;

(5) describe in detail all items of service to be received by the resident, such as food, shelter, medical care, nursing care and other health services, and whether services will be provided for a designated time period or for the resident's lifetime;

(6) as an addendum to the contract, provide a description of items of service, if any, that are available to the resident but that are not covered in the entrance or monthly fee;

(7) specify taxes and utilities, if any, that the resident must pay;

(8) specify that deposits or entrance fees paid by or for a resident shall be held in trust for the benefit of the resident in a federally insured New Mexico bank until the resident has taken possession of the resident's unit or the resident's contract cancellation period has ended, whichever occurs later;

(9) state the terms under which a continuing care contract may be canceled by the resident or the community and the basis for establishing the amount of refund of the entrance fee;

(10) state the terms under which a continuing care contract is canceled by the death of the resident and the basis for establishing the amount of refund, if any, of the entrance fee;

(11) state when fees will be subject to periodic increases and what the policy for increases will be; provided, however, that the provider shall give advance notice of not less than thirty days to the residents before the change becomes effective and increases shall be based upon economic necessity, the reasonable cost of operating the community, the cost of care and a reasonable return on investment as defined by rules promulgated by the aging and long-term services department;

(12) state the entrance fee and periodic fees that will be charged if the resident marries while living in the community, the terms concerning the entry of a spouse to the community and the consequences if the spouse does not meet the requirements for entry;

(13) indicate funeral and burial services that are not furnished by the provider;

(14) state the rules and regulations of the provider then in effect and state the circumstances under which the provider claims to be entitled to have access to the resident's unit;

(15) list the resident's and provider's respective rights and obligations as to any real or personal property of the resident transferred to or placed in the custody of the provider;

(16) describe the rights of the residents to form a residents' association and the participation, if any, of the association in the community's decision-making process;

(17) describe the living quarters purchased by or assigned to the resident;

(18) provide under what conditions, if any, the resident may assign the use of a unit to another;

(19) include the policy and procedure with regard to changes in accommodations due to an increase or decrease in the number of persons occupying an individual unit;

(20) state the conditions upon which the community may sublet or relet a resident's unit;

(21) state the fee adjustments that will be made in the event of a resident's voluntary absence from the community for an extended period of time;

(22) include the procedures to be followed when the provider temporarily or permanently changes the resident's accommodations, either within the community or by transfer to a health facility; provided that the contract shall state that such changes in accommodations shall only be made to protect the health or safety of the resident or the general and economic welfare of all other residents of the community;

(23) if the community includes a nursing facility, describe the admissions policies and what will occur if a nursing facility bed is not available at the time it is needed;

(24) in the event the resident is offered a priority for nursing facility admission at a facility that is not owned by the community, describe with which nursing facility the formal arrangement is made and what will occur if a nursing facility bed is not available at the time it is needed;

(25) include the policy and procedures for determining under what circumstances a resident will be considered incapable of independent living and will require a permanent move to a nursing facility. The contract shall also state who will participate in the decision for permanent residency in the nursing facility and shall provide that the resident shall have an advocate involved in that decision; provided that if the resident has no family member, attorney, guardian or other responsible person to

act as the resident's advocate, the provider shall request the local office of the human services department to serve as advocate;

(26) specify the types of insurance, if any, the resident is required to maintain, including medicare, other health insurance and property insurance;

(27) specify the circumstances, if any, under which the resident will be required to apply for any public assistance, including medical assistance, or any other public benefit programs;

(28) in bold type of not less than twelve-point type on the signature page, state that a contract for continuing care may present a significant financial risk and that a person considering a continuing care contract should consult with an attorney and with a financial advisor concerning the advisability of pursuing continuing care; provided, however, that failure to consult with an attorney or financial advisor shall not be raised as a defense to bar recovery for a resident in any claims arising under the provisions of the Continuing Care Act;

(29) in bold type of not less than twelve-point type on the front of the contract, state that nothing in the contract or the Continuing Care Act should be construed to constitute approval, recommendation or endorsement of any continuing care community by the state of New Mexico;

(30) in immediate proximity to the space reserved in the contract for the signature of the resident, in bold type of not less than twelve-point type, state the following:

"You, the buyer, may cancel this transaction at any time prior to midnight of the seventh day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."; and

(31) contain a completed form, in duplicate, captioned "Notice of Cancellation", which shall be attached to the contract and easily detachable, and which shall contain in twelve-point boldface type the following information and statements in the same language as that used in the contract.

"NOTICE OF CANCELLATION

Date: _____

(enter date of transaction)

You may cancel this transaction without any penalty or obligation within seven days from the above date. If you cancel, any payments made by you under the contract or sale and any negotiable instrument executed by you will be returned within ten business

days following receipt by the provider of your cancellation notice, and any security interest or lien arising out of the transaction will be canceled.

To cancel this transaction, deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to:

(Name of Provider)

at _____

(Address of Provider's Place of Business)

not later than midnight of _____

(Date)

I hereby cancel this transaction.

(Buyer's Signature)

(Date)"."

Chapter 88 Section 6 Laws 2010

Section 6. Section 24-17-6 NMSA 1978 (being Laws 1985, Chapter 102, Section 6, as amended) is amended to read:

"24-17-6. REQUIREMENTS FOR FINANCIAL RESERVES.--

A. Any deposits or entrance fees paid by or for a resident shall be held in trust for the benefit of the resident in a federally insured New Mexico bank until the resident has occupied the resident's unit or the resident's contract cancellation period has ended, whichever occurs later.

B. In addition to the amounts held in trust for specific residents under Subsection A of this section, a community that provides a type A agreement shall maintain at all times liquid reserves equal to the principal and interest payments due for a twelve-month period on all accounts of any mortgage loan and other long-term debt, as well as three months' worth of net operating expenses.

C. A community that provides a type A or type B agreement shall keep the funds maintained under Subsection A of this section in federally insured bank accounts that are separate from the community's operating accounts.

D. For communities that provide type B agreements, reserves shall be calculated on a prorated basis for residents who fall under type B agreements."

Chapter 88 Section 7 Laws 2010

Section 7. Section 24-17-10 NMSA 1978 (being Laws 1985, Chapter 102, Section 10, as amended) is amended to read:

"24-17-10. RESTRAINT OF PROHIBITED ACTS--REMEDIES.--

A. Whenever the attorney general has reasonable belief that any person is violating or is about to violate any provision of the Continuing Care Act, or any regulation promulgated pursuant to that act, and that proceedings would be in the public interest, the attorney general may bring an action in the name of the state to restrain or prevent violations of that act or regulations promulgated pursuant to that act. The action may be brought in the district court of the county in which the person resides or has the person's principal place of business or in the district court for Santa Fe county. The attorney general acting on behalf of the state shall not be required to post bond when seeking a temporary or permanent injunction in such action.

B. In any action filed pursuant to this section of the Continuing Care Act, including an action with respect to unimproved real property, the attorney general may petition the district court for temporary or permanent injunctive relief, and restitution or remedies available pursuant to Section 24-17-15 NMSA 1978.

C. Any person who is the subject of an action brought under this section shall have the right to demand a jury trial."

Chapter 88 Section 8 Laws 2010

Section 8. Section 24-17-17 NMSA 1978 (being Laws 1991, Chapter 263, Section 6) is amended to read:

"24-17-17. RULES AND REGULATIONS AUTHORIZED.--The aging and long-term services department shall promulgate all rules and regulations necessary or appropriate to administer the provisions of the Continuing Care Act, including, but not limited to, requirements regarding financial reserves, disclosure and actuarial studies."

Approved March 8, 2010

LAWS 2010, CHAPTER 89

AN ACT

RELATING TO GAME AND FISH; AMENDING A SECTION OF CHAPTER 17, ARTICLE 4 NMSA 1978 TO PROVIDE FOR AUTHORITY FOR THE CONTROL AND PREVENTION OF THE SPREAD OF AQUATIC INVASIVE SPECIES IN NEW MEXICO; DECLARING AN EMERGENCY.

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

Chapter 89 Section 1 Laws 2010

Section 1. Section 17-4-35 NMSA 1978 (being Laws 2009, Chapter 38, Section 1) is amended to read:

"17-4-35. AQUATIC INVASIVE SPECIES CONTROL.--

A. Based on a determination of credible scientific evidence, the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New Mexico department of agriculture, is authorized to designate:

(1) species of exotic or nonnative animals or plants as aquatic
invasive species;

(2) water bodies within the state as infested waters; and

(3) specific requirements to decontaminate conveyances and
equipment.

B. Prior to entering a conveyance or equipment into any water body in the state, the owner or person in control of a warning-tagged conveyance or warning-tagged equipment or a conveyance or equipment that has been in an infested water body in New Mexico or elsewhere shall:

(1) have the conveyance or equipment decontaminated by a person or entity approved by the director to effect decontamination, and only the person legally effecting the decontamination is authorized to remove a warning tag and provide certification that the conveyance or equipment is free from infestation; or

(2) have the conveyance or equipment inspected and certified as free from infestation by trained personnel prior to entering a water body or if certification

or other documentation of decontamination is not available, otherwise demonstrate compliance with the decontamination requirements established by the director.

C. A law enforcement officer may impound a conveyance or equipment if the person transporting the conveyance or equipment refuses to submit to an inspection authorized by this section and the officer has reason to believe that an aquatic invasive species may be present, or if the conveyance or equipment has a warning tag affixed and the operator of the conveyance is attempting to enter a state water body and cannot provide evidence that the conveyance or equipment has been decontaminated. A law enforcement officer shall take action to prevent equipment or conveyances believed or known to contain an aquatic invasive species and warning-tagged equipment or conveyances from entering a state water body.

D. The impoundment of a conveyance or equipment may continue for a reasonable period necessary to inspect and decontaminate the conveyance or equipment.

E. Notwithstanding any provision to the contrary, no motor vehicle that is drawing a conveyance shall be impounded pursuant to this section.

F. Trained personnel may:

(1) establish, operate and maintain aquatic invasive species check stations and conduct inspections at or adjacent to the entrance to any state-controlled water body or, pursuant to a cooperative agreement, at or adjacent to any county, municipal or federally or privately controlled water body or at or adjacent to the exit point of an infested water body or at a location agreed to by the owner of the conveyance or equipment in order to inspect conveyances and equipment prior to a conveyance or equipment entering, being launched onto or being directly exposed to water bodies of the state or upon the conveyance's or equipment's departure from infested waters;

(2) affix a warning tag to equipment or a conveyance where the presence of an aquatic invasive species has been found;

(3) affix a warning tag to a conveyance or equipment upon the conveyance or equipment leaving an infested water; or

(4) affix a warning tag to a conveyance or equipment that the trained personnel have reason to believe is infested with an aquatic invasive species based on its point of origin or use.

G. Except for state, local, tribal or federal agencies and their respective agents, employees and contractors while performing their duties or contractual obligations specific to management or control of an aquatic invasive species, it is unlawful for a person to:

(1) knowingly possess, import, export, ship or transport an aquatic invasive species into, within or from the state;

(2) knowingly release, place, plant or cause to be released, placed or planted an aquatic invasive species into a water body or adjacent to a water body where it reasonably might be anticipated to be introduced into a water body that is not infested;

(3) remove a warning tag other than as provided pursuant to this section;

(4) introduce any tagged conveyance or equipment or any equipment or conveyance from which a warning tag has been unlawfully removed into a water body without first having that conveyance or equipment decontaminated and certified pursuant to the provisions of this section; or

(5) knowingly introduce into any water body a conveyance or equipment that has been exposed to an infested water body or a water body in any other state known to contain aquatic invasive species without first being decontaminated and certified pursuant to the provisions of this section.

H. Knowingly or willfully violating any provision of this section as a first offense is a petty misdemeanor. A second or subsequent violation of any provision of this section is a misdemeanor. Any violation is punishable pursuant to Section 31-19-1 NMSA 1978.

I. The director or the director's designee shall coordinate the monitoring of the water bodies of the state for the presence of aquatic invasive species, including privately controlled waters if the director has authorized access to them or has received permission to monitor them from the persons controlling access to such waters.

J. Upon determination of an infested water body in New Mexico, the director shall immediately recommend to the person in control of the infested water body actions to limit access or take other actions to prevent the potential spread of an aquatic invasive species to other water bodies.

K. The commission is authorized to adopt rules pursuant to Section 17-1-26 NMSA 1978, and the secretary of energy, minerals and natural resources is authorized to adopt rules pursuant to Section 16-2-32 NMSA 1978 as necessary to implement and enforce the provisions of this section.

L. The director may enter into cooperative agreements with any federal, state, county or municipal authority or private entity that may be in control of a water body potentially affected by aquatic invasive species.

M. As used in this section:

(1) "aquatic invasive species" means quagga mussels and zebra mussels and other exotic or nonnative aquatic animals, including invertebrates but excluding those species listed as protected in Chapter 17 NMSA 1978, or any plant or animal species whose introduction into an aquatic ecosystem is determined by the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New Mexico department of agriculture, to cause or be likely to cause harm to the economy, environment or human health or safety;

(2) "commission" means the state game commission;

(3) "conveyance" means a motor vehicle, vessel, trailer or any associated equipment or containers, including, but not limited to, live wells, fish-hauling tanks, ballast tanks, motorized skis and bilge areas that may contain or carry an aquatic invasive species or any other equipment by which aquatic invasive species may be introduced into an aquatic ecosystem;

(4) "decontaminate" means to wash, drain, dry or otherwise treat a conveyance in accordance with guidelines established by the director in order to remove or destroy an aquatic invasive species;

(5) "director" means the director of the department of game and fish;

(6) "equipment" means an article, a tool, an implement, a device or a piece of clothing, including boots and waders, that is capable of containing or transporting water;

(7) "infested water" means a geographic region, water body or water supply system or facility within the state that the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New Mexico department of agriculture, identifies as carrying or containing an aquatic invasive species or a water body outside the state that has been identified as carrying or containing an aquatic invasive species;

(8) "inspect" means to examine a conveyance or equipment to determine whether an aquatic invasive species is present;

(9) "law enforcement officer" means a state or federal certified law enforcement officer;

(10) "trained personnel" means individuals who have successfully completed the United States fish and wildlife service's aquatic invasive species watercraft inspection and decontamination training, level I or level II, or an equivalent training recognized by the director;

(11) "warning tag" means a tag that is affixed to equipment or a conveyance upon the equipment or conveyance leaving an infested water or upon an inspection determining that the equipment or conveyance contains an aquatic invasive species that requires the equipment or conveyance to be decontaminated; and

(12) "water body" means a natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank or fountain."

Chapter 89 Section 2 Laws 2010

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

House Bill 113, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 90

AN ACT

RELATING TO ELECTIONS; ALLOWING THE APPOINTMENT OF QUALIFIED MINORS TO PRECINCT BOARDS.

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

Chapter 90 Section 1 Laws 2010

Section 1. Section 1-2-7 NMSA 1978 (being Laws 1969, Chapter 270, Section 29, as amended) is amended to read:

"1-2-7. PRECINCT BOARD--QUALIFICATION OF MEMBERS--QUALIFICATION OF PRESIDING JUDGES--QUALIFICATION OF MINORS.--

A. In order to qualify as a member of the precinct board, a person shall:

(1) be a resident of the representative district and county in which the precinct where the person is a voter is located;

(2) be able to read and write;

(3) have the necessary capacity to carry out a precinct board member's functions with acceptable skill and dispatch; and

(4) execute the precinct board member's oath of office.

B. Before serving as a presiding judge of a precinct board, a person shall receive training in the duties of that position and be certified for the position by the county clerk.

C. No person shall be qualified for appointment or service on a precinct board:

(1) who is a candidate for any federal, state, district or county office;

(2) who is a spouse, parent, child, brother or sister of any candidate to be voted for at the election; or

(3) who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

D. A county clerk may appoint not more than two minors to serve on a precinct board under the direct supervision of the presiding judge of a precinct. A minor appointed by the county clerk shall:

(1) meet the qualifications set forth in Subsection A of this section, except the minor need not be eligible to vote;

(2) be sixteen or seventeen years of age at the time of the election in which the minor is serving as a member of a precinct board;

(3) be a citizen at the time of the election for which the minor will be serving as a member of a precinct board;

(4) have the approval of the minor's parent or legal guardian, unless emancipated;

(5) attend at least one school of instruction in accordance with the provisions of Section 1-2-17 NMSA 1978; and

(6) be appointed to the board of the precinct in which the minor's parent or legal guardian resides, unless the county clerk determines there is a shortage or absence of precinct board members in certain precincts in accordance with the provisions of Section 1-2-11 NMSA 1978.

E. A minor appointed to a precinct board shall not serve as the presiding judge or as an election judge."

Chapter 90 Section 2 Laws 2010

Section 2. Section 1-2-10 NMSA 1978 (being Laws 1975, Chapter 255, Section 16) is amended to read:

"1-2-10. PRECINCT BOARD--APPOINTMENT BY COUNTY CLERK.--The county clerk shall appoint the precinct board for each precinct in the following order:

A. from the list submitted by the major party county chairs in the order stated thereon;

B. from the list of minors who qualify to be precinct board members at the discretion of the county clerk;

C. from the standby list; and

D. from any other list of voters who have the same qualifications and comply with the same requirements as provided for precinct board members."

House Bill 127

Approved March 8, 2010

LAWS 2010, CHAPTER 91

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING A SECTION OF THE PUBLIC HEALTH ACT TO ADD FIVE ADDITIONAL DISEASES FOR WHICH TESTING IS REQUIRED FOR NEWBORNS.

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

Chapter 91 Section 1 Laws 2010

Section 1. Section 24-1-6 NMSA 1978 (being Laws 1973, Chapter 359, Section 6, as amended) is amended to read:

"24-1-6. TESTS REQUIRED FOR NEWBORN INFANTS.--

A. The department shall adopt screening tests for the detection of congenital diseases that shall be given to every newborn infant, except that, after being informed of the reasons for the tests, the parents or guardians of the newborn child may waive the requirements for the tests in writing. The screening tests shall include at a minimum:

- (1) 3-methylcrotonyl-CoA deficiency;
- (2) 3-OH 3-CH₃ glutaric aciduria;
- (3) argininosuccinic acidemia;
- (4) mitochondrial acetoacetyl-CoA thiolase deficiency;
- (5) biotinidase deficiency;
- (6) carnitine uptake defect;
- (7) citrullinemia;
- (8) congenital adrenal hyperplasia;
- (9) congenital hypothyroidism;
- (10) cystic fibrosis;
- (11) galactosemia;
- (12) glutaric acidemia type I;
- (13) Hb S/beta-thalassemia;
- (14) hearing deficiency;
- (15) homocystinuria;
- (16) isovaleric acidemia;
- (17) long-chain L-3-OH acyl-CoA dehydrogenase deficiency;
- (18) maple syrup urine disease;
- (19) medium chain acyl-CoA dehydrogenase deficiency;
- (20) methylmalonic acidemia;
- (21) multiple carboxylase deficiency;
- (22) phenylketonuria;
- (23) propanoic acidemia;

- (24) sickle cell anemia;
- (25) trifunctional protein deficiency;
- (26) tyrosinemia type I; and
- (27) very long-chain acyl-CoA dehydrogenase deficiency.

B. Upon the later of either January 1, 2011 or when the secretary finds that these screening tests are reasonably available, the department shall adopt screening tests for the detection of the following genetic diseases that shall be given to every newborn infant; except that, after being informed of the reasons for the tests, the parents or guardians of the newborn child may waive the requirements of the tests in writing. The screening tests shall include:

- (1) acid maltase deficiency or glycogen storage disease type II;
- (2) globoid cell leukodystrophy;
- (3) Gaucher's disease;
- (4) Niemann-Pick disease; and
- (5) Fabry disease.

C. In determining which other congenital diseases to screen for, the secretary shall consider the recommendations of the New Mexico pediatrics society of the American academy of pediatrics.

D. The department shall institute and carry on such laboratory services or may contract with another agency or entity to provide such services as are necessary to detect the presence of congenital diseases.

E. The department shall, as necessary, carry on an educational program among physicians, hospitals, public health nurses and the public concerning congenital diseases.

F. The department shall require that all hospitals or institutions having facilities for childbirth perform or have performed screening tests for congenital diseases on all newborn infants except if the parents or guardians of a child object to the tests in writing."

Approved March 8, 2010

LAWS 2010, CHAPTER 92

AN ACT

RELATING TO HEALTH INSURANCE; AUTHORIZING THE NEW MEXICO MEDICAL INSURANCE POOL TO DEVELOP NEW INSURANCE PROGRAMS SPECIFIC TO FEDERAL LAW FOR STATE HIGH-RISK POOLS; ENACTING A SECTION OF THE MEDICAL INSURANCE POOL ACT; DECLARING AN EMERGENCY.

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

Chapter 92 Section 1 Laws 2010

Section 1. A new section of the Medical Insurance Pool Act is enacted to read:

"EXPANSION OF PROGRAMS PURSUANT TO FEDERAL LAW.--The board may:

A. establish a health plan to offer selected eligible individuals the ability to purchase or enroll in a program pursuant to federal law that provides expanded coverage for state high-risk pools;

B. establish eligibility and coverage criteria as needed for selected eligible individuals;

C. establish the cost-sharing amounts payable by a selected eligible individual enrolled in the health plan, including the premium, deductible, coinsurance, co-payment or other out-of-pocket expenses; and

D. participate with and receive funding from any federal agency designated to administer expanded coverage programs for state high-risk pools."

Chapter 92 Section 2 Laws 2010

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

House Bill 216, w/ec

Approved March 8, 2010

LAWS 2010, CHAPTER 93

AN ACT

RELATING TO CRIMES; AMENDING THE RESIDENT ABUSE AND NEGLECT ACT TO PROHIBIT ABUSE OF INDIVIDUALS IN RESIDENTS' OR CARE PROVIDERS' HOMES.

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

Chapter 93 Section 1 Laws 2010

Section 1. Section 30-47-3 NMSA 1978 (being Laws 1990, Chapter 55, Section 3) is amended to read:

"30-47-3. DEFINITIONS.--As used in the Resident Abuse and Neglect Act:

A. "abuse" means any act or failure to act performed intentionally, knowingly or recklessly that causes or is likely to cause harm to a resident, including:

(1) physical contact that harms or is likely to harm a resident of a care facility;

(2) inappropriate use of a physical restraint, isolation or medication that harms or is likely to harm a resident;

(3) inappropriate use of a physical or chemical restraint, medication or isolation as punishment or in conflict with a physician's order;

(4) medically inappropriate conduct that causes or is likely to cause physical harm to a resident;

(5) medically inappropriate conduct that causes or is likely to cause great psychological harm to a resident; or

(6) an unlawful act, a threat or menacing conduct directed toward a resident that results and might reasonably be expected to result in fear or emotional or mental distress to a resident;

B. "care facility" means a hospital; skilled nursing facility; intermediate care facility; care facility for the mentally retarded; psychiatric facility; rehabilitation facility; kidney disease treatment center; home health agency; ambulatory surgical or outpatient facility; home for the aged or disabled; group home; adult foster care home; private residence that provides personal care, sheltered care or nursing care for one or more persons; a resident's or care provider's home in which personal care, sheltered care or nursing care is provided; adult day care center; boarding home; adult residential

shelter care home; and any other health or resident care related facility or home, but does not include a care facility located at or performing services for any correctional facility;

C. "department" means the human services department or its successor, contractor, employee or designee;

D. "great psychological harm" means psychological harm that causes mental or emotional incapacitation for a prolonged period of time or that causes extreme behavioral change or severe physical symptoms that require psychological or psychiatric care;

E. "great physical harm" means physical harm of a type that causes physical loss of a bodily member or organ or functional loss of a bodily member or organ for a prolonged period of time;

F. "neglect" means, subject to the resident's right to refuse treatment and subject to the caregiver's right to exercise sound medical discretion, the grossly negligent:

(1) failure to provide any treatment, service, care, medication or item that is necessary to maintain the health or safety of a resident;

(2) failure to take any reasonable precaution that is necessary to prevent damage to the health or safety of a resident; or

(3) failure to carry out a duty to supervise properly or control the provision of any treatment, care, good, service or medication necessary to maintain the health or safety of a resident;

G. "person" means any individual, corporation, partnership, unincorporated association or other governmental or business entity;

H. "physical harm" means an injury to the body that causes substantial pain or incapacitation; and

I. "resident" means any person who resides in a care facility or who receives treatment from a care facility."

House Bill 217, aa

Approved March 8, 2010

LAWS 2010, CHAPTER 94

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING NEW SECTIONS OF CHAPTER 59A, ARTICLE 22 NMSA 1978 AND THE SMALL GROUP RATE AND RENEWABILITY ACT TO SET MINIMUM REIMBURSEMENT LEVELS FOR DIRECT SERVICES; ENACTING A NEW SECTION OF THE HEALTH MAINTENANCE ORGANIZATION LAW TO SET MINIMUM REIMBURSEMENT LEVELS FOR DIRECT SERVICES; ENACTING A NEW SECTION OF THE NONPROFIT HEALTH CARE PLAN LAW TO SET MINIMUM REIMBURSEMENT LEVELS FOR DIRECT SERVICES.

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

Chapter 94 Section 1 Laws 2010

Section 1. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"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 insurance division of the commission. 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 insurance division, 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 or the Health Insurance Alliance 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 premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

Chapter 94 Section 2 Laws 2010

Section 2. A new section of the Small Group Rate and Renewability Act is enacted to read:

"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 insurance division of the commission. 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 or the Health Insurance Alliance 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 premium tax paid

pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

Chapter 94 Section 3 Laws 2010

Section 3. A new section of the Health Maintenance Organization Law is enacted to read:

"HEALTH MAINTENANCE ORGANIZATIONS--DIRECT SERVICES.--

A. A health maintenance organization shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, 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 insurance division of the commission. 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 insurance division, 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 or the Health Insurance Alliance 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 premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

Chapter 94 Section 4 Laws 2010

Section 4. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"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 insurance division of the commission. 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 or the Health Insurance Alliance 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 premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

HBIC/House Bill 12

Approved March 9, 2010

LAWS 2010, CHAPTER 95

AN ACT

RELATING TO HEALTH INSURANCE; ELIMINATING GENDER AS A HEALTH INSURANCE RATING FACTOR.

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

Chapter 95 Section 1 Laws 2010

Section 1. Section 59A-18-13.1 NMSA 1978 (being Laws 1994, Chapter 75, Section 26, as amended) is amended to read:

"59A-18-13.1. ADJUSTED COMMUNITY RATING.--

A. Every insurer, fraternal benefit society, health maintenance organization or nonprofit health care plan that provides primary health insurance or health care coverage insuring or covering major medical expenses shall, in determining

the initial year's premium charged for an individual, use only the rating factors of age, gender pursuant to Subsection B of this section, geographic area of the place of employment and smoking practices, except that for individual policies the rating factor of the individual's place of residence may be used instead of the geographic area of the individual's place of employment.

B. In determining the initial and any subsequent year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rates in the age group by more than the following percentage of the lower rate for policies issued or delivered in the respective year; provided, however, that gender shall not be used as a rating factor for policies issued or delivered on or after January 1, 2014:

- (1) twenty percent for calendar year 2010;
- (2) fifteen percent for calendar year 2011;
- (3) ten percent for calendar year 2012; and
- (4) five percent for calendar year 2013.

C. No person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen or children aged nineteen to twenty-five who are full-time students may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit an insurer, fraternal benefit society, health maintenance organization or nonprofit health care plan from offering rates that differ depending upon family composition.

D. The provisions of this section do not preclude an insurer, fraternal benefit society, health maintenance organization or nonprofit health care plan from using health status or occupational or industry classification in establishing:

- (1) rates for individual policies; or
- (2) the amount an employer may be charged for coverage under the group health plan.

E. As used in Subsection D of this section, "health status" does not include genetic information.

F. The superintendent shall adopt regulations to implement the provisions of this section."

Chapter 95 Section 2 Laws 2010

Section 2. Section 59A-23B-1 NMSA 1978 (being Laws 1991, Chapter 111, Section 1) is amended to read:

"59A-23B-1. SHORT TITLE.--Chapter 59A, Article 23B NMSA 1978 may be cited as the "Minimum Healthcare Protection Act"."

Chapter 95 Section 3 Laws 2010

Section 3. Section 59A-23B-6 NMSA 1978 (being Laws 1991, Chapter 111, Section 6, as amended) is amended to read:

"59A-23B-6. FORMS AND RATES--APPROVAL OF THE SUPERINTENDENT--ADJUSTED COMMUNITY RATING.--

A. All policy or plan forms, including applications, enrollment forms, policies, plans, certificates, evidences of coverage, riders, amendments, endorsements and disclosure forms, shall be submitted to the superintendent for approval prior to use.

B. No policy or plan may be issued in the state unless the rates have first been filed with and approved by the superintendent. This subsection shall not apply to policies or plans subject to the Small Group Rate and Renewability Act.

C. In determining the initial year's premium or rate charged for coverage under a policy or plan, the only rating factors that may be used are age, gender pursuant to this subsection, geographic area of the place of employment and smoking practices, except that for individual policies the rating factor of the individual's place of residence may be used instead of the geographic area of the individual's place of employment. In determining the initial and any subsequent year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rate in the age group by more than the following percentage of the lower rate for policies issued or delivered in the respective year; provided, however, that gender shall not be used as a rating factor for policies issued or delivered on or after January 1, 2014:

(1) twenty percent for calendar year 2010;

(2) fifteen percent for calendar year 2011;

(3) ten percent for calendar year 2012; and

(4) five percent for calendar year 2013.

D. No person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen or children aged nineteen to twenty-five who are full-time students may be lower than the bottom rates in the two hundred fifty

percent band. The rating factor restrictions shall not prohibit an insurer, society, organization or plan from offering rates that differ depending upon family composition.

E. The provisions of this section do not preclude an insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan from using health status or occupational or industry classification in establishing:

(1) rates for individual policies; or

(2) the amount an employer may be charged for coverage under a group health plan.

F. As used in Subsection E of this section, "health status" does not include genetic information.

G. The superintendent shall adopt regulations to implement the provisions of this section."

Chapter 95 Section 4 Laws 2010

Section 4. Section 59A-23C-5.1 NMSA 1978 (being Laws 1994, Chapter 75, Section 33, as amended) is amended to read:

"59A-23C-5.1. ADJUSTED COMMUNITY RATING.--

A. A health benefit plan that is offered by a carrier to a small employer shall be offered without regard to the health status of any individual in the group, except as provided in the Small Group Rate and Renewability Act. The only rating factors that may be used to determine the initial year's premium charged a group, subject to the maximum rate variation provided in this section for all rating factors, are the group members':

(1) ages;

(2) genders pursuant to Subsection B of this section;

(3) geographic areas of the place of employment; or

(4) smoking practices.

B. In determining the initial and any subsequent year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rate in the age group by more than the following percentage of the lower rate for policies issued or delivered in the respective year; provided, however, that gender shall not be used as a rating factor for policies issued or delivered on or after January 1, 2014:

- (1) twenty percent for calendar year 2010;
- (2) fifteen percent for calendar year 2011;
- (3) ten percent for calendar year 2012; and
- (4) five percent for calendar year 2013.

C. No person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen or children aged nineteen to twenty-five who are full-time students may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit a carrier from offering rates that differ depending upon family composition.

D. The provisions of this section do not preclude a carrier from using health status or occupational or industry classification in establishing the amount an employer may be charged for coverage under a group health plan.

E. As used in Subsection D of this section, "health status" does not include genetic information.

F. The superintendent shall adopt regulations to implement the provisions of this section."

Chapter 95 Section 5 Laws 2010

Section 5. Section 59A-56-6 NMSA 1978 (being Laws 1994, Chapter 75, Section 6, as amended) is amended to read:

"59A-56-6. BOARD--POWERS AND DUTIES.--

A. The board shall have the general powers and authority granted to insurance companies licensed to transact health insurance business under the laws of this state.

B. The board:

(1) may enter into contracts to carry out the provisions of the Health Insurance Alliance Act, including, with the approval of the superintendent, contracting with similar alliances of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions;

(2) may sue and be sued;

(3) may conduct periodic audits of the members to assure the general accuracy of the financial data submitted to the alliance;

(4) shall establish maximum rate schedules, allowable rate adjustments, administrative allowances, reinsurance premiums and agent referral, servicing fees or commissions subject to applicable provisions in the Insurance Code. In determining the initial year's rate for health insurance, the only rating factors that may be used are age, gender pursuant to this section, geographic area of the place of employment and smoking practices. In any year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rates in the age group by more than the following percentage of the lower rate for policies issued or delivered in the respective year; provided, however, that gender shall not be used as a rating factor for policies issued or delivered on or after January 1, 2014:

- (a) twenty percent for calendar year 2010;
- (b) fifteen percent for calendar year 2011;
- (c) ten percent for calendar year 2012; and
- (d) five percent for calendar year 2013.

No person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit a member from offering rates that differ depending upon family composition;

(5) may direct a member to issue policies or certificates of coverage of health insurance in accordance with the requirements of the Health Insurance Alliance Act;

(6) shall establish procedures for alternative dispute resolution of disputes between members and insureds;

(7) shall cause the alliance to have an annual audit of its operations by an independent certified public accountant;

(8) shall conduct all board meetings as if it were subject to the provisions of the Open Meetings Act;

(9) shall draft one or more sample health insurance policies that are the prototype documents for the members;

(10) shall determine the design criteria to be met for an approved health plan;

(11) shall review each proposed approved health plan to determine if it meets the alliance-designed criteria and, if it does meet the criteria, approve the plan; provided that the board shall not permit more than one approved health plan per member for each set of plan design criteria;

(12) shall review annually each approved health plan to determine if it still qualifies as an approved health plan based on the alliance-designed criteria and, if the plan is no longer approved, arrange for the transfer of the insureds covered under the formerly approved plan to an approved health plan;

(13) may terminate an approved health plan not operating as required by the board;

(14) shall terminate an approved health plan if timely claim payments are not made pursuant to the plan; and

(15) shall engage in significant marketing activities, including a program of media advertising, to inform small employers and eligible individuals of the existence of the alliance, its purpose and the health insurance available or potentially available through the alliance.

C. The alliance is subject to and responsible for examination by the superintendent. No later than March 1 of each year, the board shall submit to the superintendent an audited financial report for the preceding calendar year in a form approved by the superintendent."

Senate Bill 148

Approved March 9, 2010

LAWS 2010, CHAPTER 96

AN ACT

RELATING TO SCHOOL ATHLETICS SAFETY; ESTABLISHING SAFETY PROTOCOLS AND EDUCATION REGARDING BRAIN INJURY RESULTING FROM SCHOOL ATHLETIC ACTIVITIES.

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

Chapter 96 Section 1 Laws 2010

Section 1. A new section of the Public School Code is enacted to read:

"BRAIN INJURY--PROTOCOLS TO BE USED BY COACHES FOR BRAIN INJURIES RECEIVED BY STUDENTS IN SCHOOL ATHLETIC ACTIVITIES-- TRAINING OF COACHES--INFORMATION TO BE PROVIDED TO COACHES, STUDENT ATHLETES AND STUDENT ATHLETES' PARENTS OR

GUARDIANS.--

A. A coach shall not allow a student athlete to participate in a school athletic activity on the same day that the student athlete:

(1) exhibits signs, symptoms or behaviors consistent with a brain injury after a coach, a school official or a student athlete reports, observes or suspects that a student athlete exhibiting these signs, symptoms or behaviors has sustained a brain injury; or

(2) has been diagnosed with a brain injury.

B. A coach may allow a student athlete who has been prohibited from participating in a school athletic activity pursuant to Subsection A of this section to participate in a school athletic activity no sooner than one week after the student athlete has received a brain injury and only after the student athlete:

(1) no longer exhibits any sign, symptom or behavior consistent with a brain injury; and

(2) receives a medical release from a licensed health care professional.

C. Each school district shall ensure that each coach participating in school athletic activities in the school district receives training provided pursuant to Paragraph (1) of Subsection D of this section.

D. The New Mexico activities association shall consult with the brain injury advisory council and school districts to promulgate rules to establish:

(1) protocols and content consistent with current medical knowledge for training each coach participating in school athletic activities to:

(a) understand the nature and risk of brain injury associated with athletic activity;

(b) recognize signs, symptoms or behaviors consistent with a brain injury when a coach suspects or observes that a student athlete has received a brain injury;

(c) understand the need to alert appropriate medical professionals for urgent diagnosis or treatment; and

(d) understand the need to follow medical direction for proper medical protocols; and

(2) the nature and content of brain injury information forms and educational materials for, and the means of providing these forms and materials to, coaches, student athletes and student athletes' parents or guardians regarding the nature and risk of brain injury resulting from athletic activity, including the risk of continuing or returning to athletic activity after a brain injury.

E. At the beginning of each academic year or participation in school athletic activities, a school district shall provide a brain injury information form created pursuant to Subsection D of this section to a student athlete and the student athlete's parent or guardian. The school district shall receive signatures on the brain injury information form from the student athlete and the student athlete's parent or guardian before permitting the student athlete to begin or continue participating in school athletic activities for that academic year.

F. As used in this section:

(1) "academic year" means any consecutive period of two semesters, three quarters or other comparable units commencing with the fall term each year;

(2) "brain injury" means a body-altering physical trauma to the brain, skull or neck caused by, but not limited to, blunt or penetrating force, concussion, diffuse axonal injury, hypoxia-anoxia or electrical charge;

(3) "school athletic activity" means a sanctioned middle school, junior high school or senior high school function that the New Mexico activities association regulates;

(4) "student athlete" means a middle school, junior high school or senior high school student who engages in, is eligible to engage in or seeks to engage in a school athletic activity; and

(5) "licensed health care professional" means:

(a) a practicing physician or physician assistant licensed pursuant to the Medical Practice Act;

(b) a practicing osteopathic physician licensed pursuant to Chapter 61, Article 10 NMSA 1978;

(c) a practicing certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(d) a practicing osteopathic physician's assistant licensed pursuant to the Osteopathic Physicians' Assistants Act;

(e) a practicing psychologist licensed pursuant to the provisions of the Professional Psychologist Act; or

(f) a practicing athletic trainer licensed pursuant to the provisions of the Athletic Trainer Practice Act."

SEC/Senate Bill 1, aa

Approved March 9, 2010

LAWS 2010, CHAPTER 97

AN ACT

REPEALING SECTIONS 31-9-3 AND 31-9-4 NMSA 1978 (BEING LAWS 1982, CHAPTER 55, SECTIONS 1 AND 2) RELATING TO THE PLEA, VERDICT AND SENTENCE OF "GUILTY BUT MENTALLY ILL".

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

Chapter 97 Section 1 Laws 2010

Section 1. REPEAL.--Sections 31-9-3 and 31-9-4 NMSA 1978 (being Laws 1982, Chapter 55, Sections 1 and 2) are repealed.

Senate Bill 216

Approved March 9, 2010

LAWS 2010, CHAPTER 98

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE TAX ADMINISTRATION ACT TO PROVIDE FOR A DISTRIBUTION FROM THE OIL AND GAS

CONSERVATION TAX TO THE OIL AND GAS RECLAMATION FUND; PROVIDING FOR EXPANSION OF THE USE OF MONEY IN THE OIL AND GAS RECLAMATION FUND; AMENDING SECTIONS OF THE OIL AND GAS ACT TO REMOVE THE LIMIT ON THE AMOUNT OF MONEY IN THE OIL AND GAS RECLAMATION FUND AND TO PROVIDE FOR DONATIONS TO BE ACCEPTED IN THE FUND; MAKING AN APPROPRIATION.

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

Chapter 98 Section 1 Laws 2010

Section 1. Section 7-1-6.21 NMSA 1978 (being Laws 1985, Chapter 65, Section 7, as amended) is amended to read:

"7-1-6.21. DISTRIBUTION TO OIL AND GAS RECLAMATION FUND.--

A. With respect to any period for which the rate of the tax imposed by Section 7-30-4 NMSA 1978 is nineteen-hundredths percent, a distribution pursuant to Section 7-1-6.20 NMSA 1978 shall be made to the oil and gas reclamation fund in an amount equal to two-nineteenths of the net receipts attributable to the tax imposed under the Oil and Gas Conservation Tax Act.

B. With respect to any period for which the total rate of the tax imposed on oil by Section 7-30-4 NMSA 1978 is twenty-four hundredths percent, a distribution pursuant to Section 7-1-6.20 NMSA 1978 shall be made to the oil and gas reclamation fund in an amount equal to nineteen and seven-tenths percent of the net receipts attributable to the tax imposed under the Oil and Gas Conservation Tax Act."

Chapter 98 Section 2 Laws 2010

Section 2. Section 7-30-4 NMSA 1978 (being Laws 1959, Chapter 53, Section 4, as amended) is amended to read:

"7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

A. There is levied and shall be collected by the department a tax on all products that are severed and sold. The measure and rate of the tax shall be nineteen-hundredths percent of the taxable value of sold products. Every interest owner shall be liable for this tax to the extent of the owner's interest in the value of the products or to the extent of the owner's interest as may be measured by the value of the products. An Indian tribe, Indian pueblo or Indian shall be liable for this tax to the extent authorized or permitted by law.

B. When the average price of west Texas intermediate crude in the previous quarter exceeds seventy dollars (\$70.00) per barrel, an additional tax to that provided pursuant to Subsection A of this section is levied and shall be collected by the department on oil that is severed and sold in the ensuing quarter. The measure and rate of the total tax on oil shall be twenty-four hundredths percent of the taxable value of the sold product. Every interest owner shall be liable for this tax to the extent of the owner's interest in the value of the products or to the extent of the owner's interest as may be measured by the value of the products. An Indian tribe, Indian pueblo or Indian shall be liable for this tax to the extent authorized or permitted by law."

Chapter 98 Section 3 Laws 2010

Section 3. Section 70-2-37 NMSA 1978 (being Laws 1977, Chapter 237, Section 4, as amended) is amended to read:

"70-2-37. OIL AND GAS RECLAMATION FUND CREATED--DISPOSITION OF FUND.--There is created the "oil and gas reclamation fund". In addition to other sources, money in the fund may consist of donations. All funds in the oil and gas reclamation fund are appropriated to the energy, minerals and natural resources department for use by the oil conservation division in carrying out the provisions of the Oil and Gas Act."

Chapter 98 Section 4 Laws 2010

Section 4. Section 70-2-38 NMSA 1978 (being Laws 1977, Chapter 237, Section 5, as amended) is amended to read:

"70-2-38. OIL AND GAS RECLAMATION FUND ADMINISTERED--PLUGGING WELLS ON FEDERAL LAND--RIGHT OF INDEMNIFICATION--ANNUAL REPORT--CONTRACTORS SELLING EQUIPMENT FOR SALVAGE.--

A. The oil and gas reclamation fund shall be administered by the oil conservation division of the energy, minerals and natural resources department. Expenditures from the fund may be used by the director of the division for the purposes of:

(1) employing the necessary personnel to survey abandoned wells, well sites and associated production facilities and preparing plans for administering and performing the plugging of abandoned wells that have not been plugged or that have been improperly plugged and for the restoration and remediation of abandoned well sites and associated production facilities that have not been properly restored and remediated; and

(2) supporting energy education throughout the state in an amount not to exceed one hundred fifty thousand dollars (\$150,000) annually.

B. The director of the oil conservation division of the energy, minerals and natural resources department, as funds become available in the oil and gas reclamation fund, shall reclaim and properly plug all abandoned wells and shall restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act and the rules and regulations promulgated pursuant to that act. The division may order wells plugged and well sites and associated production facilities restored and remediated on federal lands on which there are no bonds running to the benefit of the state in the same manner and in accordance with the same procedure as with wells drilled on state and fee land, including using funds from the oil and gas reclamation fund to pay the cost of plugging. When the costs of plugging a well or restoring and remediating well sites and associated production facilities are paid from the oil and gas reclamation fund, the division is authorized to bring a suit against the operator or district court of the county in which the well is located for indemnification for all costs incurred by the division in plugging the well or restoring and remediating the well site and associated production facilities. Any funds collected pursuant to a judgment in a suit for indemnification brought under the Oil and Gas Act shall be deposited in the oil and gas reclamation fund.

C. The director of the oil conservation division of the energy, minerals and natural resources department shall make an annual report to the secretary of energy, minerals and natural resources, the governor and the legislature on the use of the oil and gas reclamation fund.

D. Contracts for plugging, reclamation and energy education pursuant to this section shall be entered into in accordance with the provisions of the Procurement Code. A contractor employed by the oil conservation division of the energy, minerals and natural resources department to plug a well or restore or remediate a well site or associated production facility is authorized to sell the equipment and material or product that is removed from the well, site or facility and to deduct the proceeds of the sales from the costs of plugging, restoring or remediating.

E. As used in this section, "associated production facilities" means those facilities used for, intended to be used for or that have been used for the production, treatment, transportation, storage or disposal of oil, gas, brine, product or waste generated during oil and gas operations or used in the production of oil and gas if that facility is, has been or would have been subject to regulation by the oil conservation division of the energy, minerals and natural resources department or the oil conservation commission pursuant to the Oil and Gas Act or the Water Quality Act."

HTRC/House Bill 208

Approved March 9, 2010

LAWS 2010, CHAPTER 99

AN ACT

RELATING TO COURTS; PROVIDING THAT A METROPOLITAN COURT BE ESTABLISHED IN A CLASS A COUNTY WITH A POPULATION OF MORE THAN TWO HUNDRED FIFTY THOUSAND PERSONS.

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

Chapter 99 Section 1 Laws 2010

Section 1. Section 34-8A-1 NMSA 1978 (being Laws 1979, Chapter 346, Section 1) is amended to read:

"34-8A-1. METROPOLITAN COURT--ESTABLISHED.--There is established within the boundaries of a class A county with a population of more than two hundred fifty thousand persons in the last federal decennial census the "metropolitan court". The name of the metropolitan district is the same as the name of the county in which it is located."

House Bill 229, aa

Approved March 9, 2010

LAWS 2010, CHAPTER 100

AN ACT

RELATING TO UTILITIES; PROVIDING FOR VALIDITY OF EXISTING FRANCHISE AGREEMENTS BY MUNICIPALITIES AND COUNTIES WITH PUBLIC UTILITIES IN EFFECT AS OF JANUARY 1, 2010; DECLARING AN EMERGENCY.

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

Chapter 100 Section 1 Laws 2010

Section 1. A new section of Chapter 5 NMSA 1978 is enacted to read:

"VALIDITY OF CURRENT FRANCHISE AND RIGHT-OF-WAY AGREEMENTS.-
-Municipal and county franchise and other agreements with public utilities, as "public utility" is defined by Subsection G of Section 62-3-3 NMSA 1978, providing access to public rights of way that are in effect as of January 1, 2010, are valid and enforceable agreements, including those that provide for a payment of fees by the public utility expressed as a percentage of the public utility's revenues or otherwise and including

expired agreements that have continued to be honored by both the public utility and the local government according to their terms, regardless of the expiration date of the agreements, if both the public utility and the local government continue to abide by the terms of the expired agreement."

Chapter 100 Section 2 Laws 2010

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

HBIC/House Bill 269, w/ec

Approved March 9, 2010

LAWS 2010, CHAPTER 101

AN ACT

RELATING TO GOVERNMENT RESTRUCTURING; CREATING THE GOVERNMENT RESTRUCTURING TASK FORCE; DECLARING AN EMERGENCY.

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

Chapter 101 Section 1 Laws 2010

Section 1. TEMPORARY PROVISION--GOVERNMENT RESTRUCTURING TASK FORCE CREATED.--The "government restructuring task force" is created. The task force shall function from the date of its appointment until December 31, 2010.

Chapter 101 Section 2 Laws 2010

Section 2. TEMPORARY PROVISION--MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The government restructuring task force shall be composed of seventeen voting members. Five members of the house of representatives shall be appointed by the speaker of the house of representatives, and five members of the senate shall be appointed by the committees' committee of the senate or, if the appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the committees' committee.

B. Members of the government restructuring task force shall be appointed from each house so as to give the two major political parties in each house the same proportional representation on the task force as prevails in each house. Vacancies on the task force shall be filled by appointment in the same manner as the original appointments. The chair and vice chair of the task force shall be elected by the task force.

C. Six public members with expertise in public and private sector organizational structure and operations shall be appointed to the task force, three of whom shall be appointed by the speaker of the house of representatives and three of whom shall be appointed by the president pro tempore of the senate. The public members shall reflect the ethnic, cultural and geographic diversity of the state.

D. The secretary of finance and administration shall be a member of the task force.

E. The task force shall meet at the call of the chair as necessary to carry out its duties, but no less than once and no more than twice a month. The first meeting shall be held no later than April 22, 2010.

F. Three absences from meetings of the task force shall constitute grounds for removal of a member of the task force. Upon the request of the chair of the task force, the appointing authority shall replace the member who has failed to attend three meetings of the task force.

G. A majority of the members constitutes a quorum for the transaction of business. The support of a majority of the members is required for adoption of any action by the task force; provided, however, that the final report of the task force, including its recommendations and proposed legislation, must have the support of a majority of the legislative members.

Chapter 101 Section 3 Laws 2010

Section 3. TEMPORARY PROVISION--DUTIES.--

A. After its appointment, the government restructuring task force shall hold one organizational meeting to develop a work plan and budget for the ensuing interim.

B. The government restructuring task force shall study the current resources of the state's agencies, programs, services, funding and policies and the public needs served by them, including the:

(1) recommendations of the governor's committee on government efficiency;

(2) need for consolidation of agencies and elimination or reduction of redundant, duplicative or overlapping programs or services;

(3) current and projected staffing needs of state agencies for full-time, part-time, term, temporary and contract employment; and

(4) current and projected revenue estimates for the next three to five fiscal years.

C. The government restructuring task force shall solicit public input.

D. The government restructuring task force shall study the recommendations, initiatives and statutory changes that occurred between 1975 and 1978 in reorganizing state government.

E. The government restructuring task force shall examine the statutes, constitutional provisions, rules and court decisions governing state government and reorganization and recommend legislation or changes.

F. The department of finance and administration and the various agencies of the state shall cooperate with the task force and provide the task force with information regarding budget, staffing, organizational structure and other information as requested by the task force.

Chapter 101 Section 4 Laws 2010

Section 4. TEMPORARY PROVISION--SUBCOMMITTEES.--Subcommittees shall be created only by majority vote of all members appointed to the government restructuring task force. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full task force in advance of such meeting or expenditure, and the approval shall be shown in the minutes of the task force.

Chapter 101 Section 5 Laws 2010

Section 5. TEMPORARY PROVISION--REPORT.--The government restructuring task force shall make a report of its findings and recommendations for consideration of the governor and the legislature, including presentations to the New Mexico legislative council, the legislative finance committee and the legislative education study committee by December 1, 2010. A final report and proposed legislation shall be made available to the governor and all legislators by December 31, 2010.

Chapter 101 Section 6 Laws 2010

Section 6. TEMPORARY PROVISION--STAFF.--The staff for the government restructuring task force shall be provided by the legislative council service, the legislative finance committee, the legislative education study committee and the department of finance and administration.

Chapter 101 Section 7 Laws 2010

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

House Bill 237, aa, w/ec

Approved March 9, 2010

LAWS 2010, CHAPTER 102

AN ACT

RELATING TO PUBLIC UTILITIES; DECLARING THAT OWNERS OF CERTAIN RENEWABLE ENERGY DISTRIBUTED GENERATION FACILITIES ARE NOT PUBLIC UTILITIES; PROVIDING FOR THE CREATION OF HOLDING COMPANIES; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING FOR PUBLIC UTILITY COST RECOVERY.

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

Chapter 102 Section 1 Laws 2010

Section 1. A new section of the Public Utility Act is enacted to read:

"RENEWABLE ENERGY DISTRIBUTED GENERATION FACILITIES--OWNERS AND OPERATORS NOT PUBLIC UTILITIES.--

A. Notwithstanding any other provision of the Public Utility Act to the contrary, a person not otherwise a public utility shall not be deemed to be a public utility subject to the jurisdiction, control or regulation of the commission and the provisions of the Public Utility Act solely because the person owns or controls all or any part of any renewable energy distributed generation facility that:

(1) is located on the host's site;

(2) produces electric energy used at the host's site and sold to the host or the host's tenants or employees located at the host's site; and

(3) shares a common point of connection with the electric utility serving the area and the host or the host's tenants and employees served by the renewable energy distributed generation facility.

B. Nothing contained in this section shall be interpreted to prohibit the sale of energy produced by the renewable energy distributed generation facility to the electric utility serving the area in which the renewable energy distributed generation facility is located.

C. As used in this section:

(1) "host" means the customer of a public utility who uses the electric energy produced by a renewable energy distributed generation facility and occupies the site upon which the renewable energy distributed generation facility is located;

(2) "renewable energy distributed generation facility" means a facility that produces electric energy by the use of renewable energy and that is sized to supply no more than one hundred twenty percent of the average annual consumption of electricity by the host at the site of the renewable energy distributed generation facility in accordance with applicable interconnection rules; and

(3) "site" means all the contiguous property owned or leased by the host, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights of way or utility rights of way."

Chapter 102 Section 2 Laws 2010

Section 2. A new section of the Public Utility Act is enacted to read:

"INTERCONNECTED CUSTOMERS--UTILITY COST RECOVERY.--

A. Upon request of an investor-owned utility in any general rate case, the commission shall approve interconnected customer rate riders to recover the costs of ancillary and standby services pursuant to this section only for new interconnected customers, except that a utility may seek approval of interconnected customer rate riders in the utility's renewable energy procurement plan filing before January 1, 2011, to be in effect until the conclusion of the utility's next general rate case. In establishing interconnected customer rate riders, the commission shall assure that costs to be recovered through the rate riders are not duplicative of costs to be recovered in underlying rates and shall give due consideration to the reasonably determinable embedded and incremental costs of the utility to serve new interconnected customers and the reasonably determinable benefits to the utility system provided by new interconnected customers during each three-year period after which new interconnected customer rate riders go into effect. The benefits to the utility system, as applicable, include avoided renewable energy certificate procurement costs, reduced capital

investment costs resulting from the avoidance or deferral of capital expenditures, reduced energy and capacity costs and line loss reductions.

B. In a filing made pursuant to Subsection G of Section 62-8-7 NMSA 1978, a rural electric cooperative may implement rates or rate riders by customer class, giving due consideration to reasonably determinable costs and benefits of interconnected systems, that are specifically designed to recover from interconnected customers the fixed costs of providing electric services to those customers.

C. Nothing in this section shall be interpreted as preventing the utility from charging rates designed to recover all of its reasonable costs of providing service to customers.

D. As used in this section:

(1) "ancillary and standby services" means services that are essential to maintain electric system reliability and are required by or are a consequence of interconnecting distributed generation facilities to a utility's system and may include, among other services, regulation and frequency response, regulation and voltage support, spinning reserves and supplemental reserves;

(2) "interconnected customer" means a utility customer that is also interconnected to non-utility distributed generation facilities; and

(3) "new interconnected customer" means a customer that became an interconnected customer after December 31, 2010 or a customer whose renewable energy certificate purchase agreement entered into prior to January 1, 2011 is no longer in effect."

Chapter 102 Section 3 Laws 2010

Section 3. A new section of the Public Utility Act is enacted to read:

"RENEWABLE ENERGY-RELATED SERVICES--POWERS AND DUTIES OF COMMISSION.--

A. No later than July 1, 2011, the commission shall approve any new application for creation of a holding company filed by a public utility prior to January 1, 2011, as part of that utility's plan to offer renewable energy-related services for the residents of New Mexico; provided that the creation of the holding company shall be subject to such terms and conditions as are in the public interest. The creation of a holding company under this subsection shall not result in any loss of the commission's jurisdiction over corporate allocations to the utility or over costs that are charged to ratepayers.

B. Any order of the commission entered prior to January 1, 2011 declaring the public utility status of a person who owns or controls all or any part of any distributed generation facility and sells the electricity produced by the facility to other persons shall have no force or effect on or after May 19, 2010.

C. By December 31, 2012, the commission shall submit a report to the legislature that describes the effectiveness of the state's renewable energy distributed generation program in supporting the development of new renewable energy resources and that identifies any recommended changes to improve the program's effectiveness, consistent with the public policies declared in the Public Utility Act. This report shall be no more than ten pages in length."

Chapter 102 Section 4 Laws 2010

Section 4. EFFECTIVE DATE.--The effective date of the provisions of Section 1 this act is January 1, 2011.

Senate Bill 190

Approved March 9, 2010

LAWS 2010, CHAPTER 103

AN ACT

RELATING TO PUBLIC UTILITIES; DECLARING THAT OWNERS OF CERTAIN RENEWABLE ENERGY DISTRIBUTED GENERATION FACILITIES ARE NOT PUBLIC UTILITIES; PROVIDING FOR THE CREATION OF HOLDING COMPANIES; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING FOR PUBLIC UTILITY COST RECOVERY.

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

Chapter 103 Section 1 Laws 2010

Section 1. A new section of the Public Utility Act is enacted to read:

"RENEWABLE ENERGY DISTRIBUTED GENERATION FACILITIES--OWNERS AND OPERATORS NOT PUBLIC UTILITIES.--

A. Notwithstanding any other provision of the Public Utility Act to the contrary, a person not otherwise a public utility shall not be deemed to be a public utility subject to the jurisdiction, control or regulation of the commission and the provisions of

the Public Utility Act solely because the person owns or controls all or any part of any renewable energy distributed generation facility that:

(1) is located on the host's site;

(2) produces electric energy used at the host's site and sold to the host or the host's tenants or employees located at the host's site; and

(3) shares a common point of connection with the electric utility serving the area and the host or the host's tenants and employees served by the renewable energy distributed generation facility.

B. Nothing contained in this section shall be interpreted to prohibit the sale of energy produced by the renewable energy distributed generation facility to the electric utility serving the area in which the renewable energy distributed generation facility is located.

C. As used in this section:

(1) "host" means the customer of a public utility who uses the electric energy produced by a renewable energy distributed generation facility and occupies the site upon which the renewable energy distributed generation facility is located;

(2) "renewable energy distributed generation facility" means a facility that produces electric energy by the use of renewable energy and that is sized to supply no more than one hundred twenty percent of the average annual consumption of electricity by the host at the site of the renewable energy distributed generation facility in accordance with applicable interconnection rules; and

(3) "site" means all the contiguous property owned or leased by the host, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights of way or utility rights of way."

Chapter 103 Section 2 Laws 2010

Section 2. A new section of the Public Utility Act is enacted to read:

"INTERCONNECTED CUSTOMERS--UTILITY COST RECOVERY.--

A. Upon request of an investor-owned utility in any general rate case, the commission shall approve interconnected customer rate riders to recover the costs of ancillary and standby services pursuant to this section only for new interconnected customers, except that a utility may seek approval of interconnected customer rate riders in the utility's renewable energy procurement plan filing before January 1, 2011, to be in effect until the conclusion of the utility's next general rate case. In establishing

interconnected customer rate riders, the commission shall assure that costs to be recovered through the rate riders are not duplicative of costs to be recovered in underlying rates and shall give due consideration to the reasonably determinable embedded and incremental costs of the utility to serve new interconnected customers and the reasonably determinable benefits to the utility system provided by new interconnected customers during each three-year period after which new interconnected customer rate riders go into effect. The benefits to the utility system, as applicable, include avoided renewable energy certificate procurement costs, reduced capital investment costs resulting from the avoidance or deferral of capital expenditures, reduced energy and capacity costs and line loss reductions.

B. In a filing made pursuant to Subsection G of Section 62-8-7 NMSA 1978, a rural electric cooperative may implement rates or rate riders by customer class, giving due consideration to reasonably determinable costs and benefits of interconnected systems, that are specifically designed to recover from interconnected customers the fixed costs of providing electric services to those customers.

C. Nothing in this section shall be interpreted as preventing the utility from charging rates designed to recover all of its reasonable costs of providing service to customers.

D. As used in this section:

(1) "ancillary and standby services" means services that are essential to maintain electric system reliability and are required by or are a consequence of interconnecting distributed generation facilities to a utility's system and may include, among other services, regulation and frequency response, regulation and voltage support, spinning reserves and supplemental reserves;

(2) "interconnected customer" means a utility customer that is also interconnected to non-utility distributed generation facilities; and

(3) "new interconnected customer" means a customer that became an interconnected customer after December 31, 2010 or a customer whose renewable energy certificate purchase agreement entered into prior to January 1, 2011 is no longer in effect."

Chapter 103 Section 3 Laws 2010

Section 3. A new section of the Public Utility Act is enacted to read:

"RENEWABLE ENERGY-RELATED SERVICES--POWERS AND DUTIES OF COMMISSION.--

A. No later than July 1, 2011, the commission shall approve any new application for creation of a holding company filed by a public utility prior to January 1,

2011, as part of that utility's plan to offer renewable energy-related services for the residents of New Mexico; provided that the creation of the holding company shall be subject to such terms and conditions as are in the public interest. The creation of a holding company under this subsection shall not result in any loss of the commission's jurisdiction over corporate allocations to the utility or over costs that are charged to ratepayers.

B. Any order of the commission entered prior to January 1, 2011 declaring the public utility status of a person who owns or controls all or any part of any distributed generation facility and sells the electricity produced by the facility to other persons shall have no force or effect on or after May 19, 2010.

C. By December 31, 2012, the commission shall submit a report to the legislature that describes the effectiveness of the state's renewable energy distributed generation program in supporting the development of new renewable energy resources and that identifies any recommended changes to improve the program's effectiveness, consistent with the public policies declared in the Public Utility Act. This report shall be no more than ten pages in length."

Chapter 103 Section 4 Laws 2010

Section 4. EFFECTIVE DATE.--The effective date of the provisions of Section 1 of this act is January 1, 2011.

House Bill 181, w/coc

Approved March 9, 2010

LAWS 2010, CHAPTER 104

AN ACT

RELATING TO PUBLIC SCHOOL FACILITIES; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO ALLOW, RATHER THAN REQUIRE, CERTAIN SUPPLEMENTARY FUNDS TO BE TRANSFERRED BY THE PUBLIC SCHOOL FACILITIES AUTHORITY, TO EXTEND THE TIME PERIOD FOR NECESSARY ROOF REPAIRS AND REPLACEMENTS, ~~[TO ALLOW FOR GRANT ADJUSTMENT FOR CERTAIN SCHOOL FACILITIES IN REMOTE RURAL AREAS]~~ AND TO ALLOW THE PUBLIC SCHOOL FACILITIES AUTHORITY TO ADMINISTER THE PROCUREMENT FOR CERTAIN EMERGENCY PROJECTS; PROVIDING FOR A STUDY; REPEALING AN APPROPRIATION FOR INSURANCE PREMIUMS PAID BY SCHOOL DISTRICTS; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY. *LINE-ITEM VETO*

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

Chapter 104 Section 1 Laws 2010

Section 1. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended) is amended to read:

"22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--USE.--

A. The "public school capital outlay fund" is created. Balances remaining in the fund at the end of each fiscal year shall not revert.

B. Except as provided in Subsections G and I through L 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. Up to ten million dollars (\$10,000,000) of the fund may be allocated annually by the council for expenditure in fiscal years 2010 through 2015 for a roof repair and replacement initiative with projects to be identified by the council pursuant to Section 22-24-4.3 NMSA 1978; provided that money allocated pursuant to this subsection shall be expended within two years of the allocation.

I. The fund may be expended annually by the council for grants to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools. The grants shall be made upon application by the school districts and pursuant to rules adopted by the council; provided that an application on behalf of a charter school shall be made by the school district, but, if the school district fails to make an application on behalf of a charter school, the charter school may submit its own application. The following criteria shall apply to the grants:

(1) the amount of a grant to a school district shall not exceed:

(a) the actual annual lease payments owed for leasing classroom space for schools, including charter schools, in the district; or

(b) seven hundred dollars (\$700) multiplied by the number of MEM using the leased classroom facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage change between the penultimate calendar year and the immediately preceding calendar year of

the consumer price index for the United States, all items, as published by the United States department of labor;

(2) a grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants pursuant to the federal No Child Left Behind Act of 2001;

(3) at the end of each fiscal year, any unexpended or unencumbered balance of the appropriation shall revert to the fund;

(4) no grant shall be made for lease payments due pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made unless:

(a) the agreement has been approved pursuant to the provisions of the Public School Lease Purchase Act; and

(b) the facilities are leased by a charter school;

(5) if the lease payments are made pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made, neither a grant nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facilities nor does it create a legal obligation for the state to make subsequent grants pursuant to the provisions of this subsection; and

(6) as used in this subsection:

(a) "MEM" means: 1) the average

full-time-equivalent enrollment using leased classroom facilities on the eightieth and one hundred twentieth days of the prior school year; or 2) in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased classroom facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the eightieth day of the school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date; and

(b) "classroom facilities" or "classroom space" includes the space needed, as determined by the minimum required under the statewide adequacy standards, for the direct administration of school activities.

J. In addition to other authorized expenditures from the fund, up to one percent of the average grant assistance authorized from the fund during the three previous fiscal years may be expended in each fiscal year by the public school facilities

authority to pay the state fire marshal, the construction industries division of the regulation and licensing department and local jurisdictions having authority from the state to permit and inspect projects for expenditures made to permit and inspect projects funded in whole or in part under the Public School Capital Outlay Act. The authority may enter into contracts with the state fire marshal, the construction industries division or the appropriate local authorities to carry out the provisions of this subsection. Such a contract may provide for initial estimated payments from the fund prior to the expenditures if the contract also provides for additional payments from the fund if the actual expenditures exceed the initial payments and for repayments back to the fund if the initial payments exceed the actual expenditures. Money distributed from the fund to the state fire marshal or the construction industries division pursuant to this subsection shall be used to supplement, rather than supplant, appropriations to those entities.

K. Pursuant to guidelines established by the council, allocations from the fund may be made to assist school districts in developing and updating five-year facilities plans required by the Public School Capital Outlay Act; provided that:

(1) no allocation shall be made unless the council determines that the school district is willing and able to pay the portion of the total cost of developing or updating the plan that is not funded with the allocation from the fund. Except as provided in Paragraph (2) of this subsection, the portion of the total cost to be paid with the allocation from the fund shall be determined pursuant to the methodology in Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978; or

(2) the allocation from the fund may be used to pay the total cost of developing or updating the plan if:

(a) the school district has fewer than an average of six hundred full-time-equivalent students on the eightieth and one hundred twentieth days of the prior school year; or

(b) the school district meets all of the following requirements: 1) the school district has fewer than an average of one thousand full-time-equivalent students on the eightieth and one hundred twentieth days of the prior school year; 2) the school district has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) the state share of the total cost, if calculated pursuant to the methodology in Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978, would be less than fifty percent; and 4) for all educational purposes, the school district has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds.

L. Upon application by a school district, allocations from the fund may be made by the council for the purpose of demolishing abandoned school district facilities, provided that:

(1) the costs of continuing to insure an abandoned facility outweigh any potential benefit when and if a new facility is needed by the school district;

(2) there is no practical use for the abandoned facility without the expenditure of substantial renovation costs; and

(3) the council may enter into an agreement with the school district under which an amount equal to the savings to the district in lower insurance premiums are used to reimburse the fund fully or partially for the demolition costs allocated to the district."

Chapter 104 Section 2 Laws 2010

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; and

(b) in an emergency in which the health or safety of students or school personnel is at immediate risk or in which there is a threat of significant property damage, the council may award grant assistance for a project using criteria other than the statewide adequacy standards;

(3) the council shall establish criteria to be used in public school capital outlay projects that receive grant assistance pursuant to the Public School Capital Outlay Act. In establishing the criteria, the council shall consider:

(a) the feasibility of using design, build and finance arrangements for public school capital outlay projects;

(b) the potential use of more durable construction materials that may reduce long-term operating costs;

(c) concepts that promote efficient but flexible utilization of space; and

(d) any other financing or construction concept that may maximize the dollar effect of the state grant assistance;

(4) no more than ten percent of the combined total of grants in a funding cycle shall be used for retrofitting existing facilities for technology infrastructure;

(5) except as provided in Paragraph (6), (8), (9) [~~or (11)~~] of this subsection, the state share of a project approved and ranked by the council shall be funded within available resources pursuant to the provisions of this paragraph. No later than May 1 of each calendar year, a value shall be calculated for each school district in accordance with the following procedure: *LINE-ITEM VETO*

(a) the final prior year net taxable value for a school district divided by the MEM for that school district is calculated for each school district;

(b) the final prior year net taxable value for the whole state divided by the MEM for the state is calculated;

(c) excluding any school district for which the result calculated pursuant to Subparagraph (a) of this paragraph is more than twice the result calculated pursuant to Subparagraph (b) of this paragraph, the results calculated pursuant to Subparagraph (a) of this paragraph are listed from highest to lowest;

(d) the lowest value listed pursuant to Subparagraph (c) of this paragraph is subtracted from the highest value listed pursuant to that subparagraph;

(e) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is subtracted from the highest value listed in Subparagraph (c) of this paragraph;

(f) the result calculated pursuant to Subparagraph (e) of this paragraph is divided by the result calculated pursuant to Subparagraph (d) of this paragraph;

(g) the sum of the property tax mill levies for the prior tax year imposed by each school district on residential property pursuant to Chapter 22,

Article 18 NMSA 1978, the Public School Capital Improvements Act, the Public School Buildings Act, the Education Technology Equipment Act and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978 is calculated for each school district;

(h) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the highest value calculated pursuant to that subparagraph;

(i) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the value calculated pursuant to that subparagraph for the subject school district;

(j) the value calculated pursuant to Subparagraph (i) of this paragraph is divided by the value calculated pursuant to Subparagraph (h) of this paragraph;

(k) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is less than five-tenths, then, except as provided in Subparagraph (n) or (o) of this paragraph, the value for that school district equals the value calculated pursuant to Subparagraph (f) of this paragraph;

(l) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then that value is multiplied by five-hundredths;

(m) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then the value calculated pursuant to Subparagraph (l) of this paragraph is added to the value calculated pursuant to Subparagraph (f) of this paragraph. Except as provided in Subparagraph (n) or (o) of this paragraph, the sum equals the value for that school district;

(n) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value less than one-tenth, one-tenth shall be used as the value for the subject school district;

(o) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value greater than one, one shall be used as the value for the subject school district;

(p) except as provided in Section

22-24-5.7 NMSA 1978 and except as adjusted pursuant to Paragraph (6), (8), (9) [~~or (11)~~] 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 *LINE-ITEM VETO*

(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 district is rejecting the appropriation; 2) the total shall exclude any educational 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 total of all federal money received by the subject school district for nonoperating purposes pursuant to Title XIV of the American Recovery and Reinvestment Act of 2009 is calculated; provided that: 1) unless the grant award is made to the state-chartered charter school or unless the federal money received was previously used to calculate a reduction pursuant to this paragraph, before the charter school became a state-chartered charter school, the total shall exclude federal money received 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 receiving the federal money or later opts to become a state-chartered charter school; and 2) the total shall exclude federal money distributed through the fund as grant awards pursuant to the Public School Capital Outlay Act;

(c) the value calculated pursuant to Subparagraph (a) of this paragraph is added to the value calculated pursuant to Subparagraph (b) of this paragraph;

(d) 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;

(e) the value calculated pursuant to Subparagraph (c) of this paragraph for the subject school district is multiplied by the amount calculated pursuant to Subparagraph (d) of this paragraph for that school district;

(f) the total amount of reductions for the subject school district previously made pursuant to Subparagraph (g) of this paragraph for other approved public school capital outlay projects is subtracted from the amount calculated pursuant to Subparagraph (e) of this paragraph; and

(g) the amount calculated pursuant to Subparagraph (p) of Paragraph (5) of this subsection shall be reduced by the amount calculated pursuant to Subparagraph (f) of this paragraph;

(7) as used in this subsection:

(a) "governmental entity" includes an Indian nation, tribe or pueblo; and

(b) "subject school district" means the school district that has submitted the application for funding and in which the approved public school capital outlay project will be located;

(8) the amount calculated pursuant to Subparagraph (p) of Paragraph (5) of this subsection, after any reduction pursuant to Paragraph (6) of this subsection, may be increased by an additional five percent if the council finds that the subject school district has been exemplary in implementing and maintaining a

preventive maintenance program. The council shall adopt such rules as are necessary to implement the provisions of this paragraph;

(9) the council may adjust the amount of local share otherwise required if it determines that a school district has used all of its local resources. Before making any adjustment to the local share, the council shall consider whether:

(a) the school district has insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and, for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(b) the school district: 1) has fewer than an average of eight hundred full-time-equivalent students on the eightieth and one hundred twentieth days of the prior school year; 2) has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) has a share of the total project cost, as calculated pursuant to provisions of this section, that would be greater than fifty percent; and 4) for all educational purposes, has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds; or

(c) the school district: 1) has an enrollment growth rate over the previous school year of at least two and one-half percent; 2) pursuant to its five-year facilities plan, will be building a new school within the next two years; and 3) for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(10) no application for grant assistance from the fund shall be approved unless the council determines that:

(a) the public school capital outlay project is needed and included in the school district's

five-year facilities plan among its top priorities;

(b) the school district has used its capital resources in a prudent manner;

(c) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(d) the school district has submitted a five-year facilities plan that includes: 1) enrollment projections; 2) a current preventive maintenance plan that has been approved by the council pursuant to Section 22-24-5.3 NMSA 1978 and that is followed by each public school in the district; 3) the capital needs of charter schools located in the school district; and 4) projections for the facilities needed in order to maintain a full-day kindergarten program;

(e) the school district is willing and able to pay any portion of the total cost of the public school capital outlay project that, according to Paragraph (5), (6), (8) or (9) of this subsection, is not funded with grant assistance from the fund; provided that school district funds used for a project that was initiated after September 1, 2002 when the statewide adequacy standards were adopted, but before September 1, 2004 when the standards were first used as the basis for determining the state and school district share of a project, may be applied to the school district portion required for that project;

(f) the application includes the capital needs of any charter school located in the school district or the school district has shown that the facilities of the charter school have a smaller deviation from the statewide adequacy standards than other district facilities included in the application; and

(g) the school district has agreed, in writing, to comply with any reporting requirements or conditions imposed by the council pursuant to Section 22-24-5.1 NMSA 1978; and

~~_____ (11) the amount distributed from the fund to the subject school district for an approved high school project may be increased by an amount of up to twenty percent of the total project cost if:~~

~~_____ (a) the public high school facility to be constructed, improved or replaced by the project has previously qualified for a rural community adjustment pursuant to the provisions of Section 22-24-5.8 NMSA 1978; and~~

~~_____ (b) the council finds that the planned use of the additional distribution will enhance public school education at the facility, will further the subject school district's educational plan for student success for students attending the facility, is needed by and will benefit the community in which the facility is located and is a prudent use of state money]. *LINE-ITEM VETO*~~

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 technological infrastructure. Except as otherwise provided in the Public School Capital Outlay Act, the amount of outstanding deviation

from the standards shall be used by the council in evaluating and prioritizing public school capital outlay projects.

D. The acquisition of a facility by a school district or charter school pursuant to a financing agreement that provides for lease payments with an option to purchase for a price that is reduced according to lease payments made may be considered a public school capital outlay project and eligible for grant assistance under this section pursuant to the following criteria:

(1) no grant shall be awarded unless the council determines that, at the time of exercising the option to purchase the facility by the school district or charter school, the facility will equal or exceed the statewide adequacy standards and the building standards for public school facilities;

(2) no grant shall be awarded unless the school district and the need for the facility meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act;

(3) the total project cost shall equal the total payments that would be due under the agreement if the school district or charter school would eventually acquire title to the facility;

(4) the portion of the total project cost to be paid from the fund may be awarded as one grant, but disbursements from the fund shall be made from time to time as lease payments become due;

(5) the portion of the total project cost to be paid by the school district or charter school may be paid from time to time as lease payments become due; and

(6) neither a grant award nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facility.

E. In order to encourage private capital investment in the construction of public school facilities, the purchase of a privately owned school facility that is, at the time of application, in use by a school district may be considered a public school capital outlay project and eligible for grant assistance pursuant to this section if the council finds that:

(1) at the time of the initial use by the school district, the facility to be purchased equaled or exceeded the statewide adequacy standards and the building standards for public school facilities;

(2) at the time of application, attendance at the facility to be purchased is at seventy-five percent or greater of design capacity and the attendance at

other schools in the school district that the students at the facility would otherwise attend is at eighty-five percent or greater of design capacity; and

(3) the school district and the capital outlay project meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act; provided that, when determining the deviation from the statewide adequacy standards for the purposes of evaluating and prioritizing the project, the students using the facility shall be deemed to be attending other schools in the school district.

F. It is the intent of the legislature that grant assistance made pursuant to this section allows every school district to meet the standards developed pursuant to Subsection C of this section; provided, however, that nothing in the Public School Capital Outlay Act or the development of standards pursuant to that act prohibits a school district from using other funds available to the district to exceed the statewide adequacy standards.

G. Upon request, the council shall work with, and provide assistance and information to, the public school capital outlay oversight task force.

H. The council may establish committees or task forces, not necessarily consisting of council members, and may use the committees or task forces, as well as existing agencies or organizations, to conduct studies, conduct surveys, submit recommendations or otherwise contribute expertise from the public schools, programs, interest groups and segments of society most concerned with a particular aspect of the council's work.

I. Upon the recommendation of the public school facilities authority, the council shall develop building standards for public school facilities and shall promulgate

other such rules as are necessary to carry out the provisions of the Public School Capital Outlay Act.

J. No later than December 15 of each year, the council shall prepare a report summarizing its activities during the previous fiscal year. The report shall describe in detail all projects funded, the progress of projects previously funded but not completed, the criteria used to prioritize and fund projects and all other council actions. The report shall be submitted to the public education commission, the governor, the legislative finance committee, the legislative education study committee and the legislature."

Chapter 104 Section 3 Laws 2010

~~[Section 3. A new section of the Public School Capital Outlay Act, Section 22-24-5.8 NMSA 1978, is enacted to read:~~

~~-----"22-24-5.8. RURAL COMMUNITY ADJUSTMENT FOR CERTAIN FACILITIES.---~~

~~_____ A. Upon application by a school district pursuant to rules adopted by the council, the council may decide if a public high school facility, located within that school district, qualifies for a rural community adjustment.~~

~~_____ B. The council shall qualify a public high school facility for the rural community adjustment if the council determines that:~~

~~_____ (1) the facility is located in an unincorporated, rural area;~~

~~_____ (2) the public high school facility is the only facility practicably available for community purposes and is sharing its use with the community, primarily at the school district's expense with little contribution from the community;~~

~~_____ (3) the community served by the facility does not have adequate infrastructure or resources to acquire its own facilities or to compensate the school district for use of the public high school facility;~~

~~_____ (4) in calculating the grant assistance from the fund for a project pursuant to Section 22-24-5 NMSA 1978, the value calculated for the school district in which the facility is located pursuant to Subparagraph (k), (m), (n) or (o) of Paragraph (5) of Subsection B of that section is equal to or greater than seven-tenths;~~

~~_____ (5) averaged over the previous four property tax years, the school district in which the facility is located had a residential property tax rate of at least nine dollars (\$9.00) 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;]~~

~~_____ (6) at least seventy percent of the students in the school district in which the facility is located are eligible for free or reduced-fee lunch; and~~

~~_____ (7) the school district has complied with all rules adopted by the council for the implementation of the provisions of this section.~~

~~_____ C. Upon the award of a capital outlay grant pursuant to Section 22-24-5 NMSA 1978 for a public school facility that has qualified for a rural community adjustment pursuant to the provisions of this section, pursuant to Paragraph (11) of Subsection B of Section 22-24-5 NMSA 1978, the school district shall be eligible for an additional distribution to benefit that facility.-] *LINE-ITEM VETO*~~

Chapter 104 Section 4 Laws 2010

Section 4. Section 22-24-9 NMSA 1978 (being Laws 2003, Chapter 147, Section 1, as amended) is amended to read:

"22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--CREATION--POWERS AND DUTIES.--

A. The "public school facilities authority" is created under the council. The authority shall be headed by a director, selected by the council, who shall be versed in construction, architecture or project management. The director may hire no more than two deputies with the approval of the council, and, subject to budgetary constraints set out in Subsection G of Section 22-24-4 NMSA 1978, shall employ or contract with such technical and administrative personnel as are necessary to carry out the provisions of this section. The director, deputies and all other employees of the authority shall be exempt from the provisions of the Personnel Act.

B. The authority shall:

- (1) serve as staff to the council;
- (2) as directed by the council, provide those assistance and oversight functions required of the council by Section 22-24-5.1 NMSA 1978;
- (3) assist school districts with:
 - (a) the development and implementation of five-year facilities plans and preventive maintenance plans;
 - (b) procurement of architectural and engineering services;
 - (c) management and oversight of construction activities; and
 - (d) training programs;
- (4) conduct ongoing reviews of five-year facilities plans, preventive maintenance plans and performance pursuant to those plans;
- (5) as directed by the council, assist school districts in analyzing and assessing their space utilization options;
- (6) ensure that public school capital outlay projects are in compliance with applicable building codes;
- (7) conduct on-site inspections as necessary to ensure that the construction specifications are being met and periodically inspect all of the documents related to projects;
- (8) require the use of standardized construction documents and the use of a standardized process for change orders;

(9) have access to the premises of a project and any documentation relating to the project;

(10) after consulting with the department, recommend building standards for public school facilities to the council and ensure compliance with building standards adopted by the council;

(11) notwithstanding the provisions of Subsection D of Section 22-24-6 NMSA 1978, account for all distributions of grant assistance from the fund for which the initial award was made after July 1, 2004, and make annual reports to the department, the governor, the legislative education study committee, the legislative finance committee and the legislature;

(12) maintain a database of the condition of school facilities and maintenance schedules;

(13) as a central purchasing office pursuant to the Procurement Code and as directed by the council, select contractors and enter into and administer contracts for certain emergency projects funded pursuant to Subparagraph (b) of Paragraph (2) of Subsection B of Section 22-24-5 NMSA 1978; and

14) ensure that outstanding deficiencies are corrected pursuant to Section 22-24-4.1 NMSA 1978. In the performance of this duty, the authority:

(a) shall work with school districts to validate the assessment of the outstanding deficiencies and the projected costs to correct the deficiencies;

(b) shall work with school districts to provide direct oversight of the management and construction of the projects that will correct the outstanding deficiencies;

(c) shall oversee all aspects of the contracts entered into by the council to correct the outstanding deficiencies;

(d) may conduct on-site inspections while the deficiencies correction work is being done to ensure that the construction specifications are being met and may periodically inspect all of the documents relating to the projects;

(e) may require the use of standardized construction documents and the use of a standardized process for change orders;

(f) may access the premises of a project and any documentation relating to the project; and

(g) shall maintain, track and account for deficiency correction projects separately from other capital outlay projects funded pursuant to the Public School Capital Outlay Act.

C. All actions taken by the authority shall be consistent with educational programs conducted pursuant to the Public School Code. In the event of any potential or perceived conflict between a proposed action of the authority and an educational program, the authority shall consult with the secretary.

D. A school district, aggrieved by a decision or recommendation of the authority, may appeal the matter to the council by filing a notice of appeal with the council within thirty days of the authority's decision or recommendation. Upon filing of the notice:

(1) the decision or recommendation of the authority shall be suspended until the matter is decided by the council;

(2) the council shall hear the matter at its next regularly scheduled hearing or at a special hearing called by the chair for that purpose;

(3) at the hearing, the school district, the authority and other interested parties may make informal presentations to the council; and

(4) the council shall finally decide the matter within ten days after the hearing."

Chapter 104 Section 5 Laws 2010

Section 5. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE--ADDITIONAL STUDY.--In addition to its other duties, during calendar year 2010, the public school capital outlay oversight task force shall continue the working group studying issues relating to performance-based procurement for public school capital outlay projects. The task force shall report its findings and recommendations no later than December 15, 2010 to the governor and the legislature.

Chapter 104 Section 6 Laws 2010

Section 6. REPEAL.--Laws 2009 (1st S.S.), Chapter 5, Section 7 and Laws 2009 (1st S.S.), Chapter 6, Section 1 are repealed.

Chapter 104 Section 7 Laws 2010

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HEC/House Bill 68, w/ec, partial veto

Approved March 9, 2010

LAWS 2010, CHAPTER 105

AN ACT

RELATING TO CAPITAL EXPENDITURES; VOIDING APPROPRIATIONS MADE FOR CERTAIN CAPITAL PROJECTS; VOIDING THE AUTHORIZATIONS FOR THE ISSUANCE OF SEVERANCE TAX BONDS FOR CERTAIN CAPITAL PROJECTS; CHANGING PURPOSES AND AUTHORIZATIONS FOR THE EXPENDITURE OF SEVERANCE TAX BONDS PROCEEDS; REVERTING AND TRANSFERRING UNEXPENDED BALANCES OF APPROPRIATIONS MADE FOR CERTAIN CAPITAL PROJECTS; TRANSFERRING UNEXPENDED BALANCES OF APPROPRIATIONS PREVIOUSLY MADE THAT SHOULD HAVE REVERTED PURSUANT TO EXISTING LAW; AUTHORIZING THE ISSUANCE OF SHORT-TERM SEVERANCE TAX BONDS; CHANGING THE REVERSION DATE FOR CERTAIN APPROPRIATIONS FOR CAPITAL PROJECTS; MAKING APPROPRIATIONS.

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

Chapter 105 Section 1 Laws 2010

Section 1. REVERSION OF BALANCES FROM LAWS 2007 GENERAL FUND APPROPRIATIONS FOR CERTAIN CAPITAL PROJECTS.--Notwithstanding the requirements for reversion contained in Section 6-29-9 NMSA 1978 or in Laws 2007, Chapter 2, 42, 334 or 341, [~~and except as provided in Section 21 of this act,~~] on the effective date of this act, the unexpended or uncommitted balances of appropriations made from the general fund in Laws 2007, Chapter 2, 42, 334 or 341 to the following agencies for the following described projects, as further identified by the department of finance and administration appropriation identification number, shall revert to the general fund, and, within thirty days of the effective date of this act, the department of finance and administration shall transfer such unexpended or uncommitted balances to the general fund: *LINE-ITEM VETO*

A. to the aging and long-term services department:

~~[(1) to plan, design, purchase or construct a senior center at the Whitehorse Lake chapter of the Navajo Nation in McKinley county, appropriation identification number 07-3014;~~

~~(2) to purchase land for and plan, design, construct and equip a senior and community center in the Pojoaque valley area in Santa Fe county, appropriation identification number 07-3019;] *LINE-ITEM VETO*~~

(3) to plan, design and construct additional facility space at the Edgewood senior center in Edgewood in Santa Fe county, appropriation identification number 07-3023;

(4) to plan, design and construct an addition to the Munson senior center in Las Cruces in Dona Ana county, appropriation identification number 07-3815;

(5) to plan, design, construct, equip and furnish a senior center in Eddy county, appropriation identification number 07-3819;

(6) to plan, design, construct, renovate, equip and furnish, including improvements to the parking lot and landscaping, the Edgewood senior center in Santa Fe county, appropriation identification number 07-3851; and

(7) to construct, equip and furnish an addition and renovations, including exterior site improvements, to the senior center in Edgewood in Santa Fe county, appropriation identification number 07-3852;

B. to the capital program fund:

(1) to plan, design and construct renovations, including improvements to the exhibit areas, to the New Mexico mining museum in Grants in Cibola county, appropriation identification number 07-3873;

(2) to replace remittance transports and for security upgrades at the Lujan building in Santa Fe in Santa Fe county, appropriation identification number 07-3879;

(3) for security upgrades and the purchase and installation of electronic monitoring equipment at

state-owned corrections facilities statewide, including the facility in Springer in Colfax county, appropriation identification number 07-3881; and

(4) to upgrade voice data wiring of human services department buildings statewide, appropriation identification number 07-3882;

C. to the cultural affairs department:

~~[(1) to plan, design and construct renovations and purchase equipment for the museum of international folk art in Santa Fe in Santa Fe county, appropriation identification number 07-3034;] LINE-ITEM VETO~~

(2) to plan, design and construct improvements to El Camino Real international heritage center in Socorro in Socorro county, appropriation identification number 07-3035;

(3) to plan, design and implement an interactive fine arts outreach program to be available statewide, appropriation identification number 07-3036;

(4) to plan, design and construct an exhibit and education building and expansion and upgrades to the theater and facilities at the international space hall of fame at the New Mexico museum of space history in Alamogordo in Otero county, appropriation identification number 07-3897;

(5) to construct a rehearsal hall on land donated by the Santa Fe opera in Santa Fe county, appropriation identification number 07-3898;

~~[(6) to renovate, including site, facility and infrastructure improvements, the Bataan memorial campus museums, including the Santa Fe children's museum, Bataan memorial military museum, Santa Fe armory for the arts theatre and center for contemporary arts, in Santa Fe in Santa Fe county, appropriation identification number 07-3903;-] and *LINE-ITEM VETO*~~

(7) to plan, design and construct repairs and renovations to historic structures in Taos county, appropriation identification number 07-3906;

D. to the library division of the cultural affairs department, for interior and exterior improvements to the New Mexico state library in Santa Fe in Santa Fe county, appropriation identification number 07-3907;

E. to the economic development department:

~~[(1) to acquire land for, plan, design and construct a meat processing plant, including site improvements, in McKinley county for the Ramah chapter, appropriation identification number 07-3923; and] *LINE-ITEM VETO*~~

(2) to plan, design and construct the redevelopment of central business districts as part of the mainstreet program statewide, appropriation identification number 07-6411;

F. to the public education department:

(1) for playground and athletic field improvements at Chaparral elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-3062;

(2) for improvements to the shooting sports team facilities at Cibola high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-3065;

(3) to plan, design, construct and equip tennis courts at Cibola high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-3066;

(4) to construct, purchase and install improvements to the physical education and wrestling room at Rio Grande high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-3101;

(5) to plan, design, construct, engineer, equip and furnish renovations to the science rooms at Sandia high school in the Albuquerque public school district in Bernalillo county, appropriation identification number

07-3103;

(6) to plan, design, construct, equip and purchase land for a lecture hall, including classroom and bathroom facilities, at South Valley Academy charter school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-3105;

(7) to purchase and install blinds at Wilson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number

07-3121;

(8) to design, purchase, construct and install bleachers at Bobcat stadium at Hagerman municipal school district in Chaves county, appropriation identification number 07-3122;

(9) to plan, design and construct improvements to the parking lot at the Mack Chase athletic complex in the Artesia public school district in Eddy county, appropriation identification number 07-3152;

(10) to plan, design and construct improvements to the weight room, including purchasing and installing equipment, at Eldorado high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-3927;

(11) to plan, design, construct and improve lecture halls and to purchase and install information technology, including related equipment and furniture, for South Valley academy in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-3951;

(12) to plan, design, construct and equip a basketball court at Highland high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4030;

(13) to plan, design and construct improvements to the field at Jefferson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4049;

(14) to construct and upgrade the track at Jefferson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4051;

(15) to plan, design and construct site improvements, including paving, storm drainage and landscaping, to John Adams middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4054;

(16) to plan, design and construct facility improvements, including furnishing and equipping a science laboratory and exterior improvements, to the Armijo building for Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4115;

(17) to acquire land for, plan, design and construct a facility at Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4116;

(18) to plan, design, purchase, renovate and equip a facility for the public academy for the performing arts in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4129;

(19) to plan, design, construct, engineer, equip and furnish a building for the behavioral intervention program at Sandia high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4147;

(20) to plan, design, construct, engineer, equip and furnish renovations to the science rooms at Sandia high school in the Albuquerque public school district in Bernalillo county, appropriation identification number

07-4152;

(21) to purchase, renovate and equip the performing arts center, including communication devices, orchestra equipment and a sound system, at Valley high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4183;

(22) to plan, design, construct, renovate and equip the baseball field at West Mesa high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4192;

(23) to plan, design and construct a roof walkway at Whittier elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4197;

(24) to plan, design, construct and equip improvements to the cafeteria and kitchen at Wilson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number

07-4198;

(25) to plan, design and construct electrical improvements, including related equipment, at Wilson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4200;

(26) to plan, design and install a new floor for the gymnasium at Wilson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-4201;

(27) to remodel, equip and furnish the Eunice high school science laboratory in the Eunice public school district in Lea county, appropriation identification number 07-4285;

(28) to plan, design and construct improvements to sports facilities, including purchase and installation of bleachers, at Taylor middle school in the Lovington municipal school district in Lea county, appropriation identification number 07-4294;

(29) to plan and design the New Beginnings center at Los Ninos elementary school in the Las Vegas city public school district in San Miguel county, appropriation identification number 07-4336;

(30) for playground and athletic field improvements and equipment at Martin Luther King, Jr. elementary school in the Rio Rancho public school district in Sandoval county, appropriation identification number 07-4344;

(31) to purchase and install bleachers, repair the electrical system and make improvements to the fencing, batting cages and concession buildings and surrounding areas at little league fields in the Pojoaque Valley public school district in Santa Fe county, appropriation identification number 07-4348; and

(32) to replace the roof at Agua Fria elementary school in the Santa Fe public school district in Santa Fe county, appropriation identification number 07-4352;

G. to the energy, minerals and natural resources department:

(1) for engineering studies and environmental assessments and to purchase and equip fire trucks, conduct wildfire mitigation projects, increase global information systems capability and develop community wildfire protection plans statewide, appropriation identification number 07-4391; and

(2) for innovative energy projects intended to advance solutions to energy problems that have applicability across the state or regionally, appropriation identification number 07-4392;

H. to the state parks division of the energy, minerals and natural resources department:

(1) to plan, design and construct a visitor center at Sugarite Canyon state park in Colfax county, appropriation identification number 07-3214; and

(2) to plan, design and construct a multiuse trail along the Rio Grande in Bernalillo, Valencia, Sandoval, Socorro, Sierra, Dona Ana, Santa Fe, Rio Arriba and Taos counties, appropriation identification number 07-4396;

I. to the office of the state engineer:

(1) to create a flood control map and plan for upper and lower Nogal canyon in Otero county, appropriation identification number 07-3218;

(2) to plan, design and construct a flood diversion system, including a channel, spillway and flood retention dam, in Estancia in Tarrant county, appropriation identification number 07-3222;

(3) to acquire property for, plan, design and construct flooding and drainage improvements in the Vado and Del Cerro areas of Dona Ana county, appropriation identification number 07-4399;

(4) to plan, design and construct improvements to the Santa Cruz dam and reservoir in the Santa Cruz irrigation district in Santa Fe county, appropriation identification number 07-4404; and

(5) for surface water and ground water measurement statewide, appropriation identification number 07-4407;

J. to the department of environment:

(1) to plan, design, construct, equip and install a well and pump house, including integration into the existing water facility, for the Chamita mutual domestic water consumers' and sewage works association in Chamita in Rio Arriba county, appropriation identification number

07-3239;

(2) to plan, design and construct improvements to the wastewater system in Willard in Tarrant county, appropriation identification number 07-3246;

(3) to plan, design and construct water and wastewater system improvements for the water utility authority in Bernalillo county, appropriation identification number 07-4410;

(4) to design, purchase and install water storage tanks in the east mountain area of Bernalillo county, appropriation identification number 07-4411;

(5) to plan, design and construct sewer infrastructure on Coors boulevard from Fortuna road to Old Coors drive in Albuquerque in Bernalillo county, appropriation identification number 07-4414;

(6) to plan, design and construct improvements to the sewer interceptor on Coors boulevard between Yucca drive and Central avenue in Albuquerque in Bernalillo county, appropriation identification number

07-4415;

(7) to plan, design, construct and equip improvements to the Fambrough mutual domestic water consumers association water system in Chaves county, appropriation identification number 07-4422;

(8) to plan, design and construct improvements to a water system for the Bibb mutual domestic water consumers association in Cibola county, appropriation identification number 07-4425;

(9) to plan, design and construct improvements, including a new wastewater lagoon and new sewer lines, to the Cebolleta land grant wastewater system in Cibola county, appropriation identification number 07-4427;

(10) to plan, design and construct improvements to a water system for the San Mateo mutual domestic water consumers association in Cibola county, appropriation identification number 07-4429;

(11) to plan, design and construct water system improvements for the Seboyeta mutual domestic water consumers association in Cibola county, appropriation identification number 07-4430;

(12) to repair and replace the water well in the industrial park in Milan in Cibola county, appropriation identification number 07-4432;

(13) to plan, design and construct a water and wastewater system on Berryhill, Marmon and Laurie Lee streets in Milan in Cibola county, appropriation identification number 07-4433;

(14) to acquire property for, plan, design and construct a wastewater pre-treatment plant and wastewater infrastructure in Clovis in Curry county, appropriation identification number 07-4440;

(15) to plan, design and construct water system improvements, including a new waterline and well with connection to the arsenic treatment plant, for La Union mutual domestic sewer and water association in La Union in Dona Ana county, appropriation identification number 07-4452;

(16) to plan, design and construct improvements to the water system for the Otis mutual domestic water consumers and sewage works association in Eddy county, appropriation identification number 07-4459;

(17) to plan, design and construct improvements to various water wells in Carlsbad in Eddy county, appropriation identification number 07-4465;

(18) to plan, design and construct a water system in Hurley in Grant county, appropriation identification number 07-4472;

(19) to plan, design, construct and equip a landfill in Vaughn in Guadalupe county, appropriation identification number 07-4478;

(20) to plan, design, equip and construct water and wastewater system improvements in Vaughn in Guadalupe county, appropriation identification number
07-4479;

(21) to plan, design and construct improvements to the water system for the Lincoln mutual domestic water consumers association and Lincoln sewage works in Lincoln in Lincoln county, appropriation identification number 07-4493;

(22) to plan, design and construct wastewater system improvements for the Thoreau water and sanitation district in McKinley county, appropriation identification number 07-4500;

~~[(23) to plan, design and construct water and wastewater system improvements, including water transmission and sewer collection lines, in Wagon Mound in Mora county, appropriation identification number 07-4505;]~~ *LINE-ITEM VETO*

(24) to plan, design, construct and equip water system improvements, including a water tank, water lines and gate valves, for the Rio Chiquito

mutual domestic water consumers and mutual sewage works association in Rio Arriba and Santa Fe counties, appropriation identification number 07-4509;

(25) to plan, design and construct water system improvements for the Waterfall community water users association in Otero county, appropriation identification number 07-4513;

(26) to plan, design, construct and install water system improvements, including waterline replacement, fire hydrants and a water storage tank, for La Luz mutual domestic water consumers' association and mutual sewage works association in La Luz in Otero county, appropriation identification number 07-4517;

(27) to purchase and install a supervisory control and data acquisition system for the Orogrande mutual domestic water consumers and mutual sewage works association in Orogrande in Otero county, appropriation identification number 07-4518;

(28) to acquire land for and plan, design and construct a water plant and storage ponds in Tularosa in Otero county, appropriation identification number 07-4521;

(29) to plan, design and construct a well, pump house, water storage tank, water lines and applicable appurtenances for the Ancones mutual domestic water and wastewater consumers' association in Rio Arriba county, appropriation identification number 07-4526;

(30) to plan, design and construct improvements to la asociacion de agua de los Brazos water system in Rio Arriba county, appropriation identification number 07-4528;

(31) to plan, design, construct and equip a sewer treatment plant in Chama in Rio Arriba county, appropriation identification number 07-4532;

(32) to plan, design, construct, equip and install a well and pump house, including integration into the existing water facility, for the Chamita mutual domestic water consumers' and sewage works association in Chamita in Rio Arriba county, appropriation identification number

07-4533;

(33) to plan, design and construct wastewater system improvements for the Cordova mutual domestic water consumers association in Rio Arriba county, appropriation identification number 07-4534;

(34) to plan, design, construct and improve the water system in Espanola in Rio Arriba county, appropriation identification number 07-4536;

(35) to plan, design and construct a water storage tank for the Tierra Amarilla mutual domestic water association in Tierra Amarilla in Rio Arriba county, appropriation identification number 07-4538;

(36) to plan, design and construct water and wastewater system improvements for La Pasada mutual domestic water consumers and sewage works association in San Miguel county, appropriation identification number 07-4544;

(37) to plan, design, construct and equip water system improvements for the Lower Colonias mutual domestic water consumers association in San Miguel county, appropriation identification number 07-4545;

(38) to purchase, design and install water meters in Pecos in San Miguel county, appropriation identification number 07-4548;

(39) to plan, design and construct water system improvements, including well house and meters, for the Ribera mutual domestic water consumers association in San Miguel county, appropriation identification number 07-4549;

(40) to plan, design and construct water system improvements for the Tecolote mutual domestic water consumers association in Tecolote in San Miguel county, appropriation identification number 07-4551;

(41) to plan, design, construct and equip public water system improvements, including water line replacement and hydrants, for the Jemez Springs domestic water association in Sandoval county, appropriation identification number 07-4561;

(42) to plan, design and construct water system improvements for the Pena Blanca mutual domestic water consumers association and mutual sewage works association, including purchasing and installing water lines, valves, fire hydrants and meters, in Pena Blanca in Sandoval county, appropriation identification number 07-4563;

(43) to plan, design and construct the water system for the Galisteo mutual domestic water consumers' and mutual sewage works association in Santa Fe county, appropriation identification number 07-4573;

(44) to plan, design and construct a water and sanitary sewer system for Agua Fria village in Santa Fe county, appropriation identification number 07-4575;

(45) to plan, design, construct and acquire easements and property for a sewer system in the Sombrillo area of Santa Fe county, appropriation identification number 07-4576;

(46) to plan, design, construct and equip wells in Santa Fe county, appropriation identification number 07-4577;

(47) to plan, design and construct improvements to existing wells, including placing them

on-line and purchasing and installing casing, pumps and

tie-ins, in Magdalena in Socorro county, appropriation identification number 07-4590;

(48) to plan, design, construct and equip water system improvements for the Vadito mutual domestic water consumers association in Taos county, appropriation identification number 07-4593;

(49) to plan, design and construct a water system, including replacement of water lines, in Questa in Taos county, appropriation identification number 07-4596;

~~[(50) to plan, design and construct improvements to the water system in Taos in Taos county, appropriation identification number 07-4600;] *LINE-ITEM VETO*~~

(51) to plan, design and construct water and wastewater system improvements, including a generator and drilling a well, in Encino in Torrance county, appropriation identification number 07-4601;

(52) to plan, design and construct improvements to the water and wastewater system in Moriarty in Torrance county, appropriation identification number 07-4602;

(53) for acquiring water rights, including needed applications and transfers, for improvements to the water distribution system and wells and for planning a sewer system in Agua Fria in Santa Fe county, appropriation identification number 07-6083;

(54) to plan, design, construct and equip an effluent reuse system in Clovis in Curry county, appropriation identification number 07-6086;

~~[(55) to drill and equip a water well in Grants in Cibola county, appropriation identification number 07-6178; and] *LINE-ITEM VETO*~~

(56) to plan, design and construct water system improvements in Dora in Roosevelt county, appropriation identification number 07-6338;

K. to the department of finance and administration, to conduct leak detection, regional and demonstration projects for water systems across the state, appropriation identification number 07-4619;

L. to the department of game and fish, to purchase water rights for wildlife and habitat protection in Selden canyon in Dona Ana county, appropriation identification number 07-4622;

M. to the department of health:

(1) to purchase and equip a vehicle for a mobile dental clinic in Dona Ana county, appropriation identification number 07-4626; and

(2) to support alternative medicine projects in Albuquerque in Bernalillo county, appropriation identification number 07-6472;

N. to the Indian affairs department:

(1) to conduct a land survey and archaeological clearance survey for the Navajo Nation department of veterans' affairs to determine feasibility for veterans' housing assistance home construction, appropriation identification number 07-3257;

(2) to landscape and improve, including irrigation and grass development, the little league fields at the Pueblo of Isleta in Bernalillo, Valencia and Tarrant counties, appropriation identification number 07-3258;

(3) to purchase, equip and install an emergency backup power system and fire truck equipment at the Pueblo of Cochiti in Sandoval county, appropriation identification number 07-3260;

(4) to plan, design and construct a transfer station in the Torreon-Star Lake chapter of the Navajo Nation in Sandoval county, appropriation identification number

07-3263;

(5) to plan and design a veterans' services facility at the Pueblo of Laguna in Cibola county, appropriation identification number 07-4642;

(6) to plan, design and construct telephone lines in the Ramah chapter in Cibola county, appropriation identification number 07-4652;

(7) to plan, design and construct improvements to the chapter house in the Bread Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4658;

(8) to plan, design, construct and equip an addition to the chapter house in the Bread Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4661;

(9) to design and construct renovations to the warehouse in the Casamero Lake chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4664;

(10) to plan, design and construct a powerline extension to the judicial and public safety facility in the Crownpoint chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4673;

(11) to plan, design and construct and expansion to the educational facility at Dine college in the Crownpoint chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4675;

(12) to renovate, equip and furnish the chapter house in the Iyanbito chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4677;

(13) to improve the Iyanbito and Perea head start center sewage systems in the Iyanbito chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4678;

(14) to design and construct an office complex in the Red Lake chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4685;

(15) to plan, design, construct and install powerline extensions at the Red Rock chapter of the Navajo Nation in McKinley county, appropriation identification number 07-4688;

(16) to plan, design, construct and improve wells in Pina in Otero county, appropriation identification number 07-4705;

(17) to drill a well, set a pump and construct all connections for the Pena Canyon well for the Mescalero Apache Tribe in Otero county, appropriation identification number 07-4708;

(18) to repair, connect and equip water tanks for the Mescalero Apache Tribe in Otero county, appropriation identification number 07-4709;

(19) to plan, design, construct, equip and furnish an honors dormitory for Navajo students attending Aztec high school in Aztec in San Juan county, appropriation identification number 07-4717;

(20) to plan and design, including environmental and archaeological assessments and flood plain and geological studies, the judicial and public safety complex for the Shiprock chapter of the Navajo Nation in San Juan county, appropriation identification number 07-4734;

(21) to plan, design, renovate and construct a head start building at the Pueblo of Jemez in Sandoval county, appropriation identification number 07-4741;

(22) to plan, design and construct a regional wastewater system, treatment plant, lift stations and lines to serve San Felipe elementary school and a housing development in the Pueblo of San Felipe in Sandoval county, appropriation identification number 07-4745;

(23) to purchase, plan, design and construct telecommunications equipment at the Pueblo of Zia in Sandoval county, appropriation identification number 07-4755;

(24) to plan, design, construct, equip and furnish an addition to the administration and head start building, including purchase and installation of kitchen appliances, recreational facility and equipment for the head start program, at the Pueblo of San Ildefonso in Santa Fe county, appropriation identification number 07-4764;

(25) to study, plan and construct a flood control mitigation project for the Church Rock chapter of the Navajo Nation in McKinley county, appropriation identification number 07-6260; and

(26) to plan, design, construct, purchase and install improvements, furnishings and equipment, including information technology and improvements to the parking lot, at the Thoreau health station in Thoreau in McKinley county, appropriation identification number 07-6280;

O. to the interstate stream commission:

(1) to plan, design and construct improvements to the piping and headgates on the Giddings ditch in Guadalupe county, appropriation identification number 07-3267;

(2) to plan, design and construct improvements, including the installation of piping, to the Cuchilla ditch for the Des Montes acequia association in Taos county, appropriation identification number 07-3286;

(3) to plan, design and construct improvements, including clearing banks and installing head gates, to los Lovatos acequia in Taos county, appropriation identification number 07-3287;

~~[(4) to plan, design and construct improvements, including road culverts and irrigation turnouts, for acequia de los Padillas in the south valley of Bernalillo county, appropriation identification number 07-4779;] *LINE-ITEM VETO*~~

(5) to plan, design and construct improvements to the Arenal acequia in the south valley of Bernalillo county, appropriation identification number 07-4780;

(6) to plan, design and construct improvements to acequias in the south valley of Bernalillo county, appropriation identification number 07-4781;

(7) to plan, design and construct repairs and improvements to the Telesfor acequia in the south valley of Bernalillo county, appropriation identification number

07-4782;

(8) to plan, design, engineer and construct improvements to acequias and ditch banks for the Pajarito acequia association in Albuquerque in Bernalillo county, appropriation identification number 07-4783;

(9) to plan, design, engineer, construct and expand the lateral veins of the Ranchos de Armijo acequia in the south valley of Albuquerque in Bernalillo county, appropriation identification number 07-4784;

(10) to construct and equip pump houses, including replacement of gas pumps with electric pumps, for the acequia madre de Carnuel in Carnuel in Bernalillo county, appropriation identification number 07-4785;

(11) to plan, design and construct improvements, including replacement of earthen banks with concrete walls, to the acequia de los Ranchitos in Anton Chico in Guadalupe county, appropriation identification number 07-4791;

(12) to plan, design and construct improvements, including head gates and a rock wall, to acequia de Encinal and acequia del Canoncito in Mora county, appropriation identification number 07-4793;

(13) to plan, design and construct improvements and repairs to the acequia de los Romeros de Holman in Mora county, appropriation identification number 07-4795;

(14) to plan, design and construct improvements to the acequia de Rainsville norte in Rainsville in Mora county, appropriation identification number 07-4801;

(15) to purchase water rights and land to convert agricultural wells to municipal and industrial use in Portales in Roosevelt county, appropriation identification number 07-4820;

(16) to plan, design and construct improvements to Los Gonzales ditch in San Miguel county, appropriation identification number 07-4828;

(17) to plan, design and construct improvements to the Sabinoso community ditch in San Miguel county, appropriation identification number 07-4829;

(18) to construct and replace water lines for las acequias de Placitas in Sandoval county, appropriation identification number 07-4841; and

(19) for a pipeline extension in Bluewater Village for the Bluewater Toltec irrigation district in Cibola county, appropriation identification number 07-6449;

P. to the local government division of the department of finance and administration:

(1) to purchase and install security system equipment and redesign and construct an entrance to the court facilities in the second judicial district court in Bernalillo county, appropriation identification number

07-3289;

(2) for equipment and improvements to the site, facility and field, including improvements to comply with the Americans with Disabilities Act of 1990 and improvements to the concession stand and office facility, for the Atrisco valley little league in Bernalillo county, appropriation identification number 07-3290;

(3) for a feasibility study on reuse of the Lovelace-Gibson property in Bernalillo county, appropriation identification number 07-3292;

(4) to plan, design and construct fencing for the Alamosa multiservice center in Albuquerque in Bernalillo county, appropriation identification number

07-3301;

(5) to plan, design and construct improvements to the Alamosa park in Albuquerque in Bernalillo county, appropriation identification number 07-3302;

(6) to plan, design, construct and renovate a building for use by the amigos y amigas program in Albuquerque in Bernalillo county, appropriation identification number 07-3303;

(7) to plan, design and construct an open space wildlife preserve at balloon fiesta park in Albuquerque in Bernalillo county, appropriation identification number

07-3306;

(8) to plan, design and construct improvements to the field, including purchase and installation of equipment and furniture, for the Petroglyph little league at Mariposa Basin park in Albuquerque in Bernalillo county, appropriation identification number

07-3316;

(9) to renovate the Tom Bolack forest and dog park in Albuquerque in Bernalillo county, appropriation identification number 07-3321;

(10) to design, construct and equip a multipurpose facility located on the grounds of Northeast Heights elementary school in Bernalillo county, appropriation identification number 07-3331;

(11) to plan, design, construct, equip and furnish improvements to fields and facilities for Roadrunner little league in Albuquerque in Bernalillo county, appropriation identification number 07-3335;

(12) for restoration, landscaping and streetscape improvements in the Silver Hill neighborhood in Albuquerque in Bernalillo county, appropriation identification number 07-3336;

(13) to plan, design and construct a strip park on Tramway boulevard between Lomas boulevard and Copper avenue in Albuquerque in Bernalillo county, appropriation identification number 07-3337;

(14) to plan, design and construct improvements to fields and facilities, including installing astroturf, at the West Mesa little league field in Albuquerque in Bernalillo county, appropriation identification number 07-3339;

(15) to plan, design and construct improvements to the Cielo Grande recreation area in Roswell in Chaves county, appropriation identification number

07-3355;

(16) to install a sprinkler system at the soccer fields in Milan in Cibola county, appropriation identification number 07-3374;

(17) to plan, design, construct and equip street and landscape improvements for the mainstreet program in Clovis in Curry county, appropriation identification number 07-3381;

(18) to plan, design and construct restrooms at the community baseball park in Hatch in Dona Ana county, appropriation identification number 07-3403;

(19) to plan, design and construct additions and supporting infrastructure, including restrooms, for future expansion at the High Noon soccer complex in Las Cruces in Dona Ana county, appropriation identification number 07-3405;

(20) to plan, design and renovate an apartment complex, to construct new units to comply with the requirements of the Americans with Disabilities Act of 1990 and to construct meeting rooms and offices, all for use by homeless veterans, for the housing authority in Las Cruces in Dona Ana county, appropriation identification number 07-3406;

(21) to plan, design and construct, including site improvements, the Vado del Cerro community center in Vado in Dona Ana county, appropriation identification number 07-3414;

(22) to plan, design and construct improvements to the fire station, including constructing an addition to house ambulances and equipment, in Eunice in Lea county, appropriation identification number 07-3433;

~~[(23) to plan, design and construct renovations, including improvements to the site and to comply with the Americans with Disabilities Act of 1990, to the Ocate community center in Ocate in Mora county, appropriation identification number 07-3444;] LINE-ITEM VETO~~

(24) to plan, design, renovate and construct flood plain detention, retention and diversion structures in the Alamo canyon area of Otero county, appropriation identification number 07-3447;

(25) to plan, design and construct improvements to the little league baseball field, including lighting, bleachers, scoreboards and sprinklers, in Tularosa in Otero county, appropriation identification number 07-3453;

(26) to plan, design, construct, equip and furnish renovations to the community center for the San Joaquin del rio de Chama land grant association in Rio Arriba county, appropriation identification number 07-3457;

(27) to plan, design and construct infrastructure improvements to the community center in Petaca in Rio Arriba county, appropriation identification number

07-3459;

(28) to plan, design, construct and equip an addition to La Casa family health center in Portales in Roosevelt county, appropriation identification number

07-3460;

(29) to plan, design and construct a DWI park in San Miguel county, appropriation identification number 07-3464;

(30) to replace gas lines in the westside area of Las Vegas in San Miguel county, appropriation identification number 07-3466;

(31) to acquire land for, plan, design, construct and equip a baseball field, including lighting, landscaping, related facilities and erosion control, in Sandoval county, appropriation identification number 07-3467;

(32) to plan, design, construct and equip a teen center for the boys' and girls' club in Rio Rancho in Sandoval county, appropriation identification number 07-3477;

(33) to plan, design and construct improvements to the Cesar Chavez multipurpose field in Santa Fe in Santa Fe county, appropriation identification number 07-3488;

(34) to plan, design and construct El Prado community center in Taos county, appropriation identification number 07-3505;

(35) to renovate the community center and municipal building, including designing, constructing and equipping, and furnishing a kitchen facility, in Estancia in Tarrant county, appropriation identification number 07-3511;

(36) to relocate and restore the historic doodlebug train in Belen in Valencia county, appropriation identification number 07-3516;

(37) to plan, design and construct improvements to the recreation field in Bosque in Valencia county, appropriation identification number 07-3517;

(38) to acquire land for and plan, design and construct improvements to revitalize the historic railyard area in Albuquerque in Bernalillo county, appropriation identification number 07-4872;

(39) to plan, design and construct the south valley demonstration trail along the Atrisco and Arenal drains between Central avenue and Bridge boulevard, including a multiuse trail surface, trailheads, parking, artwork and a grade-separated crossing, in Bernalillo county, appropriation identification number 07-4873;

(40) to acquire land, plan, design and construct a hangar and storage facility for the sheriff's office in Bernalillo county, appropriation identification number 07-4881;

~~[(41) to plan, design, construct and renovate the Hiland theater in Bernalillo county, appropriation identification number 07-4883;] LINE-ITEM VETO~~

(42) to purchase and install furnishings and equipment and to construct improvements, including site improvements, for the Hubbell house in Bernalillo county, appropriation identification number 07-4884;

(43) to plan, design and construct improvements, including remodeling living units, communication systems and the perimeter fence, at the juvenile detention center in Bernalillo county, appropriation identification number 07-4885;

(44) to construct, equip and furnish improvements to Los Padillas community center, including site improvements and playground structures, in Bernalillo county, appropriation identification number 07-4886;

(45) to plan, design, construct, equip and furnish a Martin Luther King, Jr., memorial in Bernalillo county, appropriation identification number 07-4887;

(46) to design and construct light manufacturing bays at the south valley economic development center in Bernalillo county, appropriation identification number 07-4895;

(47) to plan, design, construct, equip and furnish a high-volume spay and neuter clinic in the south valley area of Bernalillo county, appropriation identification number 07-4898;

(48) to plan, design, construct and equip the Clinton P. Anderson open space park in Bernalillo county, appropriation identification number 07-4902;

(49) to plan, design and construct improvements to Alameda little league park, parking lot and facilities in Albuquerque in Bernalillo county, appropriation identification number 07-4914;

(50) to plan, design and construct infrastructure and improvements for affordable housing in Albuquerque in Bernalillo county, appropriation identification number 07-4916;

(51) to acquire land and develop the site for an arena in downtown Albuquerque in Bernalillo county, appropriation identification number 07-4920;

(52) to plan, design, construct, equip and furnish a business incubator in east downtown Albuquerque in Bernalillo county, appropriation identification number

07-4930;

(53) to plan, design, construct and equip Casa Verde community park in Albuquerque in Bernalillo county, appropriation identification number 07-4931;

(54) to renovate and equip a community arts center for people with disabilities in the north valley of Albuquerque in Bernalillo county, appropriation identification number 07-4934;

(55) to purchase, plan, design and construct a facility for a dance academy and a ballet folklorico conservatory in Albuquerque in Bernalillo county, appropriation identification number 07-4938;

(56) to plan, design, construct, improve and equip a domestic violence coalition facility in Albuquerque in Bernalillo county, appropriation identification number

07-4941;

(57) to plan and design the downtown sector for the Albuquerque downtown neighborhood association in Albuquerque in Bernalillo county, appropriation identification number 07-4942;

(58) to purchase, plan, design, construct and equip a building for a food bank and storehouse in Albuquerque in Bernalillo county, appropriation identification number 07-4954;

(59) to design and construct renovations to the Highland pool in Albuquerque in Bernalillo county, appropriation identification number 07-4956;

(60) to plan, design, construct, purchase and install playground equipment and information technology, including related equipment and furniture, at Jeanne Bellamah shelter community center in Albuquerque in Bernalillo county, appropriation identification number 07-4962;

(61) to plan, design and construct improvements, including purchase and installation of equipment, at Jerry Cline park in Albuquerque in Bernalillo county, appropriation identification number 07-4963;

(62) to plan, design and install improvements, including a new roof and carpeting, to the Juan Tabo branch library in Albuquerque in Bernalillo county, appropriation identification number 07-4966;

(63) to plan, design, construct, improve and equip a cyber academy for the juvenile justice program in Albuquerque in Bernalillo county, appropriation identification number 07-4967;

(64) to plan, design, construct and equip a cultural center in La Posada hotel in Albuquerque in Bernalillo county, appropriation identification number 07-4970;

(65) to plan, design and construct a linear park on Tramway boulevard in Albuquerque in Bernalillo county, appropriation identification number 07-4975;

(66) to plan, design, renovate, construct and expand the Lobo little league fields and facilities in Albuquerque in Bernalillo county, appropriation identification number 07-4976;

(67) to plan, design, renovate, furnish and equip Los Griegos library, including landscaping and roof repair and replacement, in Albuquerque in Bernalillo county, appropriation identification number 07-4978;

(68) to plan, design and construct improvements to a walkway in the Martineztown area in Albuquerque in Bernalillo county, appropriation identification number 07-4982;

(69) to plan, design and construct improvements to Montgomery pool in Albuquerque in Bernalillo county, appropriation identification number 07-4985;

(70) to design and construct renovations and purchase equipment for the Albuquerque museum of art and history in Albuquerque in Bernalillo county, appropriation identification number 07-4986;

(71) to acquire, plan, design, expand, improve and equip the national institute of flamenco facility in Albuquerque in Bernalillo county, appropriation identification number 07-4988;

(72) to purchase, plan, design, construct, equip and furnish a building for the New Mexico holocaust and intolerance museum in Albuquerque in Bernalillo county, appropriation identification number 07-4989;

(73) to plan for a business improvement district in the Nob Hill highland metropolitan redevelopment area in Albuquerque in Bernalillo county, appropriation identification number 07-4990;

(74) to plan, design and construct improvements to the field, including purchase and installation of equipment and furniture, for the Petroglyph little

league at Mariposa Basin park in Albuquerque in Bernalillo county, appropriation identification number

07-5000;

(75) to plan, design and construct infrastructure improvements to the facility and fields used by the Roadrunner little league, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, in Albuquerque in Bernalillo county, appropriation identification number 07-5006;

(76) to plan, design and construct improvements to the Sandia science and technology park in Albuquerque in Bernalillo county, appropriation identification number 07-5007;

(77) to design, construct, equip and furnish improvements to the Singing Arrow community center in Albuquerque in Bernalillo county, appropriation identification number 07-5009;

(78) to plan, design and construct signage for the Singing Arrow neighborhood in Albuquerque in Bernalillo county, appropriation identification number

07-5010;

(79) to plan, design and construct improvements to Snowheights park in Albuquerque in Bernalillo county, appropriation identification number 07-5011;

(80) to plan, design, construct and renovate the Thunderbird little league fields and facilities in Albuquerque in Bernalillo county, appropriation identification number 07-5015;

(81) to plan, design, construct and equip a facility that includes a velodrome, performance training center and bicycle motocross track in Albuquerque in Bernalillo county, appropriation identification number

07-5017;

(82) to plan, design, construct, equip and furnish improvements, including buildings, structures, exterior site improvements and signage, to the open space visitors' center on the west side of Albuquerque in Bernalillo county, appropriation identification number

07-5020;

(83) to plan, design and construct a soccer field south of interstate 40 on the west side of Albuquerque in Bernalillo county, appropriation identification number

07-5021;

(84) to renovate, purchase and install equipment and furnishings for the Westgate library in Albuquerque in Bernalillo county, appropriation identification number 07-5022;

(85) to plan, design and construct improvements to the Westgate little league field, including turf and concession stands, in Albuquerque in Bernalillo county, appropriation identification number 07-5023;

(86) to plan, design, construct and renovate Tower park and Westgate little league fields in Albuquerque in Bernalillo county, appropriation identification number

07-5024;

(87) to plan, design and construct renovations to the Wilson pool in Albuquerque in Bernalillo county, appropriation identification number 07-5026;

(88) to plan, design and construct benches, shade structures and a storage shed, including landscaping, for the Albuquerque rose garden at the Wyoming library in Albuquerque in Bernalillo county, appropriation identification number 07-5028;

(89) to acquire land for, plan, design and construct a southwest mesa sports arena in Bernalillo county, appropriation identification number 07-5032;

(90) to plan, design and construct a parking facility on the northwest and southwest corners of the Rio Grande and Central avenue in Albuquerque in Bernalillo county, appropriation identification number 07-5034;

(91) for purchasing and renovating a building and purchasing and installing equipment for channel 27 and quote unquote organizations in Albuquerque in Bernalillo county, appropriation identification number

07-5036;

(92) to plan, design, construct and equip improvements to and expansion of Grecian park in Albuquerque in Bernalillo county, appropriation identification number

07-5039;

(93) to plan, design and construct facilities for use by the Isshin Ryu program in Albuquerque in Bernalillo county, appropriation identification number

07-5042;

(94) to plan, design and construct improvements at Manzano Mesa multigenerational center in Albuquerque in Bernalillo county, appropriation identification number 07-5046;

(95) for improvements to the Mile High little league fields in Albuquerque in Bernalillo county, appropriation identification number 07-5049;

(96) to plan, design and construct a public art piece for the entrance of the New Mexico veterans' memorial on Louisiana boulevard in Albuquerque in Bernalillo county, appropriation identification number 07-5052;

(97) to plan, design, renovate and equip a community arts center to serve people with disabilities in the north valley area of Albuquerque in Bernalillo county, appropriation identification number 07-5053;

(98) to purchase, install and renovate the children's playground at Novella park in Albuquerque in Bernalillo county, appropriation identification number 07-5056;

(99) to plan, design, construct, equip and furnish the stage performing arts theater, including purchasing and installing electrical equipment and a heating, ventilation and air conditioning system, at the Paradise Hills community center in Bernalillo county, appropriation identification number 07-5058;

(100) for a shade structure at Phil Chacon park in the Trumbull neighborhood in Albuquerque in Bernalillo county, appropriation identification number 07-5059;

(101) to purchase and install soccer field lights in Phil Chacon park in the Trumbull neighborhood in Albuquerque in Bernalillo county, appropriation identification number 07-5060;

(102) to plan, design, construct, equip and furnish an insectarium and insect laboratory at the Rio Grande botanical gardens in Albuquerque in Bernalillo county, appropriation identification number 07-5061;

(103) to expand the East Mountain library, including purchasing and installing shelving, furniture, a CD listening station and related equipment, in Tijeras in Bernalillo county, appropriation identification number

07-5074;

(104) to plan, design and construct renovations to the county-owned head start center in Reserve in Catron county, appropriation identification number

07-5081;

(105) to plan, design, construct, furnish and equip a museum in the courthouse in Chaves county, appropriation identification number 07-5083;

(106) to plan and design renovations, including landscaping, to the Chaves county community center in Roswell in Chaves county, appropriation identification number 07-5096;

(107) to acquire an office unit and to plan, design, construct, equip and furnish a food bank, including renovation of the office unit, site renovation and purchasing and installing related equipment, in Clovis in Curry county, appropriation identification number 07-5139;

(108) to purchase, plan, design, renovate, equip and furnish the Mainstreet mercantile building in Clovis in Curry county, appropriation identification number 07-5140;

(109) to plan, design, renovate and equip the women's intercultural center, including exterior site improvements, in Dona Ana county, appropriation identification number 07-5165;

(110) to plan, design, construct, furnish and equip interior and exterior site and facility improvements, including road access and parking lot improvements, to a building in Chamberino in Dona Ana county, appropriation identification number 07-5174;

(111) to plan, design and construct improvements to the industrial park in Hatch in Dona Ana county, appropriation identification number 07-5182;

~~[(112) to plan, design and construct improvements to water and wastewater systems and streets in Hatch in Dona Ana county, appropriation identification number 07-5183;]~~ *LINE-ITEM VETO*

(113) to plan, design and construct a multipurpose facility for the East Mesa multigenerational center in the East Mesa area of Las Cruces in Dona Ana county, appropriation identification number 07-5189;

(114) to plan, design and construct a community garden in Las Cruces in Dona Ana county, appropriation identification number 07-5195;

(115) to plan, design and construct improvements to High Noon soccer fields in Las Cruces in Dona Ana county, appropriation identification number 07-5199;

(116) to plan, design and renovate an apartment complex, to construct new units to comply with the requirements of the Americans with Disabilities Act of 1990 and to construct meeting rooms and offices, all for use by homeless veterans, for the housing authority in Las Cruces in Dona Ana county, appropriation identification number 07-5200;

(117) to plan, design and construct improvements, including streetscape enhancements, bus shelters, landscaping and pedestrian connection corridors, in the Mesquite historic district of Las Cruces in Dona Ana county, appropriation identification number 07-5205;

(118) to plan, design, construct and equip improvements, including paving, to the Mesilla Valley community of hope in Las Cruces in Dona Ana county, appropriation identification number 07-5212;

(119) to plan, design and construct a public art piece for the city hall in Mesilla in Dona Ana county, appropriation identification number 07-5214;

(120) to acquire land for, plan, design, construct and equip a public safety building to house the marshal's office and the fire department in Mesilla in Dona Ana county, appropriation identification number 07-5215;

(121) to plan, design and construct a community park in Santa Teresa in Dona Ana county, appropriation identification number 07-5222;

(122) to plan, design and construct improvements, including interior and exterior improvements, to the Carlsbad animal shelter in Carlsbad in Eddy county, appropriation identification number 07-5237;

(123) to plan, design, construct, renovate and equip a domestic violence shelter in Carlsbad in Eddy county, appropriation identification number 07-5238;

(124) to plan, design and renovate the Lake Carlsbad beach house, including interior and exterior improvements, in Carlsbad in Eddy county, appropriation identification number 07-5247;

(125) to acquire land for, plan, design, construct, equip and furnish a multipurpose facility for the Hachita mutual domestic water consumers association in Grant county, appropriation identification number 07-5256;

(126) to equip, plan, design and construct improvements to the fairgrounds in Cliff in Grant county, appropriation identification number 07-5263;

(127) to plan, design and construct improvements to the judicial complex at the historic Grant county courthouse, including related equipment, in Silver City in Grant county, appropriation identification number

07-5271;

(128) to plan, design, construct, equip and furnish improvements, including lighting, to the community park in Silver City in Grant county, appropriation identification number 07-5274;

(129) to plan, design, construct and equip a playground and bathrooms in Vaughn in Guadalupe county, appropriation identification number 07-5286;

(130) to plan and design a boys' and girls' club in Hobbs in Lea county, appropriation identification number 07-5297;

(131) to plan, design, construct and equip a fire station for Glencoe Palo Verde in Lincoln county, appropriation identification number 07-5317;

~~[(132) to plan, design, construct and renovate the communications and dispatch center in Luna county, appropriation identification number 07-5321;]~~ *LINE-ITEM VETO*

(133) to plan, design, construct and equip improvements to Washington park in Gallup in McKinley county, appropriation identification number 07-5344;

(134) to plan, design, construct, equip and furnish a substation for the fire department serving Ledoux, Monte Aplanado and El Carmen in Mora county, appropriation identification number 07-5347;

(135) to purchase land for, plan, design, construct and equip a municipal recreation complex in Wagon Mound in Mora county, appropriation identification number

07-5353;

(136) to plan and design phase 2 of the advanced business center in Alamogordo in Otero county, appropriation identification number 07-5364;

(137) to plan, design and construct renovations, including landscaping and outdoor exhibit areas, to the historic plaza building to house the

Tularosa Basin historical society museum in Alamogordo in Otero county, appropriation identification number 07-5365;

(138) to renovate the Red Brick schoolhouse in Tularosa in Otero county, appropriation identification number 07-5373;

(139) to plan, design and construct a recreational park for the merced del pueblo Abiquiu in Rio Arriba county, appropriation identification number 07-5378;

(140) to plan, design, construct, equip and furnish an economic development complex for the Santa Cruz de la Canada land grant in Rio Arriba and Santa Fe counties, appropriation identification number 07-5384;

(141) to plan, design, construct and equip an addition to the San Juan county archaeological research center and library in Salmon ruins in San Juan county, appropriation identification number 07-5409;

(142) to plan, design, construct and equip a solar energy system for the boys' and girls' club in Farmington in San Juan county, appropriation identification number 07-5415;

(143) to plan, design, construct and equip an office addition to the ECHO food bank warehouse building in Farmington in San Juan county, appropriation identification number 07-5416;

(144) to plan, design, construct and equip a municipal courthouse in Las Vegas in San Miguel county, appropriation identification number 07-5433;

~~[(145) to plan, design, construct, renovate and preserve the Ribera school in Ribera in San Miguel county, appropriation identification number 07-5444;]~~
LINE-ITEM VETO

(146) to plan, design, construct, equip and furnish a district attorney judicial complex in the thirteenth judicial district in Sandoval county, appropriation identification number 07-5448;

(147) to plan, design and improve little league fields in Sandoval county, appropriation identification number 07-5451;

(148) to plan, design, construct and furnish a county-owned community multicultural center near New Mexico highways 550 and 313 in Bernalillo in Sandoval county, appropriation identification number 07-5457;

(149) to plan, design and construct a performing arts center in Bernalillo in Sandoval county, appropriation identification number 07-5460;

(150) to plan, design and construct improvements to Casa San Ysidro, including a visitor center and a bridge, in Corrales in Sandoval county, appropriation identification number 07-5463;

(151) to plan, design and construct site improvements at Casa San Ysidro in Corrales in Sandoval county, appropriation identification number 07-5464;

(152) to purchase, renovate, plan, design and construct a public safety facility, including land acquisition, for the police and animal control departments in Corrales in Sandoval county, appropriation identification number 07-5468;

(153) to plan, design and construct a trails system through Corrales in Sandoval county, appropriation identification number 07-5470;

(154) to plan, design, construct and equip a New Mexico military history museum in Rio Rancho in Sandoval county, appropriation identification number 07-5475;

(155) to plan, design, construct and equip a teen center for the boys' and girls' club in Rio Rancho in Sandoval county, appropriation identification number 07-5476;

(156) to plan, design and construct a performing arts center in Rio Rancho in Sandoval county, appropriation identification number 07-5477;

(157) to plan, design, construct and equip improvements to the Agua Fria park and community center in Santa Fe county, appropriation identification number 07-5484;

(158) to acquire, plan, design, construct, renovate and equip a community and senior center in Jacona in the Pojoaque valley in Santa Fe county, appropriation identification number 07-5485;

(159) to plan, design, construct and equip the Agua Fria children's zone multipurpose center in Santa Fe county, appropriation identification number 07-5487;

(160) for land acquisitions and improvements for a protected Santa Fe river corridor at the Santa Fe river in Santa Fe county, appropriation identification number 07-5499;

(161) to plan, design, construct, equip and furnish the phase 3 addition to the Vista Grande public library in Eldorado in Santa Fe county, appropriation identification number 07-5504;

(162) to plan, design, purchase, construct, equip and furnish a multipurpose community center, including site development, in La Puebla in Santa Fe county, appropriation identification number 07-5507;

(163) to plan, design, renovate and restore Our Lady of Light chapel in Lamy in Santa Fe county, appropriation identification number 07-5508;

(164) to plan, design and construct improvements, including restoring the grandstand and retaining walls, at the Oscar Huber memorial ball park in Madrid in Santa Fe county, appropriation identification number 07-5509;

(165) to make improvements to the entranceway at barrio de la Canada in Santa Fe in Santa Fe county, appropriation identification number 07-5515;

(166) to plan, design and construct a Santa Fe boys' and girls' club facility in Santa Fe in Santa Fe county, appropriation identification number 07-5520;

(167) to plan, design, construct, equip and landscape a statewide trauma treatment facility and Santa Fe rape crisis center focusing on providing veterans' services in Santa Fe in Santa Fe county, appropriation identification number 07-5550;

(168) to plan, design, construct, equip and furnish a youth agricultural facility in Stanley in Santa Fe county, appropriation identification number 07-5552;

(169) to renovate, landscape and install playground equipment and irrigation systems to the Polvadera, Escondida and San Antonio parks in Socorro county, appropriation identification number 07-5558;

(170) to purchase and install information technology for use by the North American institute, appropriation identification number 07-5570;

(171) to plan, design and construct renovations, including improvements that comply with the Americans with Disabilities Act of 1990, to the community center in Los Cordovas in Taos county, appropriation identification number 07-5575;

(172) to renovate the community center building and site in Penasco in Taos county, appropriation identification number 07-5590;

(173) to plan, design and construct the Alexander Gusdorf eco-park, including an environmentally interactive wastewater recycling system, in Taos in Taos county, appropriation identification number 07-5598;

(174) to renovate the community center and municipal building, including designing, constructing and equipping, and furnishing a kitchen facility, in Estancia in Tarrant county, appropriation identification number 07-5615;

(175) to plan, design and construct mainstreet improvements, including landscaping, gateway feature, lighting and bike and walking trails, in Moriarty in Tarrant county, appropriation identification number 07-5618;

(176) to plan, design, construct, equip and furnish a communications facility in Union county, appropriation identification number 07-5623;

(177) to construct, renovate, equip and furnish the Jarales community center and the sheriff substation, including exterior site improvements, in Valencia county, appropriation identification number 07-5640;

(178) to plan, design, construct, equip and furnish an addition to the veterans of foreign wars building in Mora in Mora county, appropriation identification number 07-6037;

(179) to plan, design, construct, equip and furnish bleachers and shade structures for the Eastdale little league in Albuquerque in Bernalillo county, appropriation identification number 07-6068;

(180) to plan, design and construct the Tower community park and Westgate little league field improvements, including turf and concession stands, in Albuquerque in Bernalillo county, appropriation identification number 07-6073;

(181) for a reader board for the Bernalillo public school district in Sandoval county, appropriation identification number 07-6100;

(182) to purchase vans for the Alamosa community center in Albuquerque in Bernalillo county, appropriation identification number 07-6115;

(183) to plan, design and construct a Blackdom memorial in Roswell in Chaves county, appropriation identification number 07-6161;

(184) to plan, design and construct a Blackdom memorial in Roswell in Chaves county, appropriation identification number 07-6162;

(185) for a Blackdom memorial in Roswell in Chaves county, appropriation identification number 07-6163;

(186) to plan, design, construct, equip and furnish a wellness and youth development center and recreational facilities, including baseball fields, soccer fields and indoor recreation and aquatic fitness facilities, in accordance with the Clovis

wellness and youth development center plan in Clovis in Curry county, appropriation identification number 07-6198;

(187) to plan, design, improve, construct and equip the law enforcement complex in Carlsbad in Eddy county, appropriation identification number 07-6233;

(188) to plan, design, construct and equip improvements to the city museum and to develop a park in Lordsburg's downtown area and airport in Hidalgo county, appropriation identification number 07-6240;

(189) to plan, design and construct a community center, including purchase of land, in Guadalupita in Mora county, appropriation identification number 07-6298;

(190) to acquire land for, plan, design, construct, equip and furnish the Esperanza shelter administrative complex, including site improvements and purchase and installation of a modular building, in Santa Fe county, appropriation identification number 07-6386;

(191) to plan, design, construct and equip a community multipurpose center, including site development and improvements and purchase and installation of a modular building, in La Puebla in Santa Fe county, appropriation identification number 07-6391;

(192) to plan, design, construct, equip and improve La Familia medical center in Santa Fe county, appropriation identification number 07-6402;

(193) to plan, design and construct a gymnasium for the youth at Talpa community center in Taos county, appropriation identification number 07-6417;

(194) to plan, design and construct a women's drug and alcohol rehabilitation center, including purchasing an office building and installation of security and telephone systems and perimeter fencing, in Taos county, appropriation identification number 07-6419;

(195) to acquire land for, plan, design and construct a municipal complex in Sunland Park in Dona Ana county, appropriation identification number 07-6442;

(196) to plan, design, construct and equip Santa Barbara park in the Martineztown area of Albuquerque in Bernalillo county, appropriation identification number

07-6443;

(197) to plan, design, construct and equip Santa Barbara park in the Martineztown area of Albuquerque in Bernalillo county, appropriation identification number

07-6444; [and

~~(198) to plan, design, construct and equip local fair and arena facilities, including expenditures related to the rodeo statewide, appropriation identification number 07-5571;]~~ *LINE-ITEM VETO*

Q. to the tourism department, to acquire property for and renovate, furnish and equip a building to house the intertribal Indian ceremonial office in Gallup in McKinley county, appropriation identification number 07-5650;

R. to the department of transportation:

(1) to plan, design and construct improvements to Eldorado crossing at the intersection of Juan Tabo and Montgomery in Albuquerque in Bernalillo county, appropriation identification number 07-3525;

(2) to plan, design and construct traffic lights at Mountain road and Eighteenth street in Albuquerque in Bernalillo county, appropriation identification number

07-3532;

(3) for mainstreet program improvements to Fourth street in Los Ranchos de Albuquerque in Bernalillo county, appropriation identification number 07-3536;

(4) to plan, design and construct improvements to roads in Curry county, appropriation identification number 07-3543;

(5) to plan, design and construct an intersection in the area of Twenty-first, Commerce and Prince streets in Clovis in Curry county, appropriation identification number 07-3544;

(6) to plan, design and construct improvements, including drainage structures, to the Abeyta circle in Dona Ana county, appropriation identification number 07-3547;

(7) to purchase and install bus shelters for the city transit system in Las Cruces in Dona Ana county, appropriation identification number 07-3551;

(8) to purchase and install street lights outside the senior center in the Crownpoint chapter of the Navajo Nation in McKinley county, appropriation identification number 07-3559;

(9) to plan, design and construct bridge 567 on county road 6100 in San Juan county, appropriation identification number 07-3560;

(10) to plan, design and construct road improvements to Romero street in Las Vegas in San Miguel county, appropriation identification number 07-3568;

(11) to plan, design and construct improvements to Ravens Ridge road, county road 67-G, in Santa Fe county, appropriation identification number 07-3575;

(12) to plan, design and construct improvements at the intersection of Arenal and Atrisco roads SW in the south valley of Bernalillo county, appropriation identification number 07-5655;

(13) for acquisition of rights of way, planning, designing and construction of roadway drainage and paving improvements to Five Points road from Gatewood avenue to Atrisco drive in the south valley in Bernalillo county, appropriation identification number 07-5663;

(14) to plan, design and construct shoulder and road improvements to Waldie road from Isleta boulevard to the terminus in the south valley of Bernalillo county, appropriation identification number 07-5679;

(15) to plan, design and construct road and street improvements, including roundabouts, roadway medians, sidewalks, bicycle paths and landscaping, in the vicinity of Twelfth street and Menaul boulevard NW, in Albuquerque in Bernalillo county, appropriation identification number

07-5681;

(16) to plan, design and construct speed humps in the Hodgin area of Albuquerque in Bernalillo county, appropriation identification number 07-5694;

(17) to plan, design, construct, purchase and install traffic calming devices and landscaping in house district 11 in Albuquerque in Bernalillo county, appropriation identification number 07-5707;

(18) to plan, design and construct improvements to the parking areas, including drainage improvements, at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-5724;

(19) to purchase property for and plan, design and construct road and drainage improvements on Juan Diego street and in the Tortugas area in Dona Ana county, appropriation identification number 07-5751;

(20) to plan, design and construct road and drainage improvements to Church street in Anthony in Dona Ana county, appropriation identification number 07-5760;

(21) to plan, design and construct the Angostura road project, including right-of-way acquisition and drainage improvements, in Rodey in Dona Ana county, appropriation identification number 07-5777;

(22) to plan, design and construct fencing adjacent to county road 605, Dead Cow road, in Eddy county, appropriation identification number 07-5780;

(23) to plan, design, construct and purchase bus shelters and bus stop signs in Grant county, appropriation identification number 07-5786;

(24) to plan, design and construct the north-south corridor loop road connecting interstate 40 and interstate 25 via United States highway 550 near Rio Rancho and continuing south from interstate 40 to interstate 25 via New Mexico highway 6 in Sandoval, Bernalillo, Valencia and Cibola counties, appropriation identification number 07-5807;

(25) to plan, design and construct traffic signals in Alamogordo in Otero county, appropriation identification number 07-5809;

(26) to construct a hangar bay at the airport in Las Vegas in San Miguel county, appropriation identification number 07-5838;

(27) to plan, design and construct improvements, including drainage and resurfacing, to county road 11 in the Cuba area in Sandoval county, appropriation identification number 07-5839;

(28) to plan, design and construct trails and safe routes to school in Corrales in Sandoval county, appropriation identification number 07-5844;

(29) to acquire land for and plan, design and construct traffic control devices and a roundabout at the intersection of Henry Lynch and Agua Fria roads in the Agua Fria area of Santa Fe county, appropriation identification number 07-5852;

(30) to plan, design and construct an extension of county road 55-A, including drainage, grading, base course, paving, signage and related equipment, in Santa Fe county, appropriation identification number 07-5856;

(31) to plan, design, construct and install traffic lights at the intersection of New Mexico highway 304 and Golf Course road in Valencia county, appropriation identification number 07-5877;

(32) to plan, design and construct drainage improvements to roads in the Conchas dam and Big Mesa areas in San Miguel county, appropriation identification number

07-6087;

(33) to plan, design and construct drainage improvements and culverts for flood control on San Mateo street in Elephant Butte in Sierra county, appropriation identification number 07-6407; and

(34) to plan, design and construct a multipurpose trail along Fort Selden road in Dona Ana county, appropriation identification number 07-6477;

S. to the higher education department:

(1) to upgrade the heating, ventilation and cooling systems in classrooms, computer labs and the auditorium at the Luna community college satellite campus in Springer in Colfax county, appropriation identification number 07-3583;

(2) for a study concerning energy usage and alternatives to decrease energy usage for central New Mexico community college in Albuquerque in Bernalillo county, appropriation identification number 07-5882;

(3) to plan, design and construct improvements and replacement to the roof for the L building at central New Mexico community college in Albuquerque in Bernalillo county, appropriation identification number

07-5883;

(4) to renovate the Forrester building at Luna community college in Springer in Colfax county, appropriation identification number 07-5884;

(5) to purchase land for the Mora branch of Luna community college in Mora county, appropriation identification number 07-5894;

(6) to plan, design and construct improvements to King stadium at Luna community college in Las Vegas in San Miguel county, appropriation identification number 07-5900; and

(7) to acquire land and a structure for a multiuse cultural center for the casa de cultura at Luna community college in Las Vegas in San Miguel county, appropriation identification number 07-5902;

T. to the board of regents of eastern New Mexico university:

(1) to construct facilities, including portables, for the child development program at the Roswell campus of eastern New Mexico university in Chaves county, appropriation identification number 07-3588; and

(2) to plan, design, construct, equip and furnish an addition to the child development center at the Roswell branch of eastern New Mexico university in Chaves county, appropriation identification number 07-5912;

U. to the board of regents of New Mexico state university:

(1) to acquire land for, plan, design and construct a multiuse agricultural facility in the south valley of Albuquerque in Bernalillo county, appropriation identification number 07-3605;

(2) for an equipment storage barn for the New Mexico state university agricultural science center in Clovis in Curry county, appropriation identification number 07-3607;

(3) to construct improvements to, equip and furnish the baseball and softball complexes at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 07-3609;

(4) to plan, design and construct irrigation and to landscape the Fabian Garcia horticultural research garden at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 07-5943;

(5) to improve the baseball complex and surrounding area at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number
07-5947;

(6) to renovate facilities and purchase equipment for the rodeo team at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 07-5959;

(7) to plan, design and construct a sound stage for the media arts center at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 07-5962; and

(8) to plan, design, construct, equip and furnish multipurpose rooms, including a headhouse, greenhouse, lath house, walk-in cooler and drip system, for the sustainable agriculture program at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 07-5964;

V. to the board of regents of northern New Mexico state school, to acquire land for, make site improvements for, plan, design, construct, equip and furnish a community center campus for Las Cumbres community services at the Espanola campus of northern New Mexico state school in Rio Arriba county, appropriation identification number 07-5981;

W. to the board of regents of the university of New Mexico:

(1) to plan and design the Native American learning center at the university of New Mexico in Albuquerque in Bernalillo county, appropriation identification number 07-3641;

(2) to plan, design, construct and renovate a facility to house the intertribal Indian ceremonial collection at the Gallup branch of the university of New Mexico in McKinley county, appropriation identification number 07-3643;

(3) to plan and design the physical connection between the Burlington Northern railroad yards, the Albuquerque zoo, the Hispanic cultural center and other areas in the Barelmas neighborhood of Albuquerque in Bernalillo county, appropriation identification number

07-5987;

(4) to plan and design the Native American learning center at the university of New Mexico in Albuquerque in Bernalillo county, appropriation identification number 07-6010;

(5) to plan, design and construct and equip an integrative medicine and intercultural prevention and wellness center for the university of New Mexico in Albuquerque in Bernalillo county, appropriation identification number 07-6013;

(6) for the college preparatory mentoring for eighth graders project in the Albuquerque public school district in Bernalillo county, appropriation identification number 07-6473;

(7) for Native American foundation projects, appropriation identification number 07-6475; and

(8) for regional studies projects, appropriation identification number 07-6476;

X. to the board of regents of western New Mexico university, to plan, design, construct, renovate, equip and furnish the western New Mexico university museum in Silver City in Grant county, appropriation identification number

07-6034; and

Y. to the water project fund, for improvements on the San Juan river for endangered fish species recovery in San Juan county, appropriation identification number 07-6344; provided that the unexpended or uncommitted balance for this project shall revert notwithstanding the provisions of Section 72-4A-9 NMSA 1978.

Chapter 105 Section 2 Laws 2010

Section 2. CHANGE IN PURPOSE AND AUTHORIZATIONS FOR CERTAIN SEVERANCE TAX BOND PROCEEDS AUTHORIZED, APPROPRIATED OR REAUTHORIZED IN LAWS 2007.--Notwithstanding the requirements for reversion in Laws 2007, Chapter 42, 334 or 341, [~~and except as provided in Section 21 of this act,~~] the unexpended or uncommitted balances remaining on the effective date of this act of severance tax bond proceeds authorized, appropriated or reauthorized in Laws 2007, Chapter 42, 334 or 341 for the following described projects, as further identified by the department of finance and administration appropriation identification numbers and under the control of the following agencies, shall not be expended for their original purposes, but may be expended as provided in Sections 18 and 19 of this act or as specifically provided in any other act of the second session of the forty-ninth legislature; provided that, if severance tax bonds have not been issued for a project identified in this section or have been issued for less than the authorized amount, then the remaining authorization to issue bonds for the project is void: *LINE-ITEM VETO*

A. to the aging and long-term services department:

(1) to make improvements for building-code compliance, including purchase and installation of equipment, at the Lake Arthur, Hagerman and Midway Joy senior centers in Chaves county, appropriation identification number 07-3648;

(2) to make improvements for building-code compliance, including purchase and installation of equipment, to the Bread Springs chapter senior center on the Navajo Nation in McKinley county, appropriation identification number 07-3658;

(3) to make improvements for building-code compliance, including purchase and installation of equipment, to the Tukumcari senior center in Quay county, appropriation identification number 07-3666;

(4) to make improvements, including purchase and installation of equipment, to the Coyote senior center in Rio Arriba county, appropriation identification number

07-3667;

(5) to make improvements for building-code compliance, including purchase and installation of equipment, to the Medanales senior center in Rio Arriba county, appropriation identification number 07-3668;

(6) to make improvements for building-code compliance, including purchase and installation of equipment, to the Abedon Lopez senior center in Santa Fe county, appropriation identification number 07-3679;

(7) to make improvements, including purchase and installation of equipment, to the Pueblo of Nambe senior center in Santa Fe county, appropriation identification number 07-3681; and

(8) for planning, design and construction of a senior center in Dixon in Rio Arriba county, appropriation identification number 07-6323;

B. to the commission for the blind, to plan, design and construct improvements to the roof and fire protection sprinkler system at the commission for the blind office building in Albuquerque in Bernalillo county, appropriation identification number 07-3688;

C. to the capital program fund, to plan, design, renovate and repair facilities and for information technology hazard mitigation statewide, appropriation identification number 07-3703;

~~[D. to the economic development department, to design and construct roads, runways and other infrastructure for the southwest regional spaceport site project, appropriation identification number 07-6099;~~

~~E. to the energy, minerals and natural resources department, to plan, design and construct a multipurpose center in Cerrillos in Santa Fe county, appropriation identification number 07-6389;] *LINE-ITEM VETO*~~

F. to the office of the state engineer:

(1) to plan, design and construct improvements, including purchasing and installing related equipment, to Morphy lake and its earthen dams in Mora county, appropriation identification number 07-3718; and

~~[(2) to plan and repair the spillway and armor the headwall of the dam for the Ponderosa ditch association in Sandoval county, appropriation identification number 07-6368;] *LINE-ITEM VETO*~~

G. to the department of environment:

(1) to plan, design and construct water system improvements, including a new waterline and well with connection to the arsenic treatment plant, for La Union mutual domestic sewer and water association in La Union in Dona Ana county, appropriation identification number 07-3721;

(2) to plan, design and construct improvements to the Cebolleta land grant wastewater system in Cibola county, appropriation identification number 07-6171;

(3) to plan, design and construct water system improvements in Eagle Nest in Colfax county, appropriation identification number 07-6191;

(4) to upgrade the water system for the Gallina mutual domestic water consumers association in Rio Arriba county, appropriation identification number 07-6320; and

(5) to plan, design and construct water system improvements in Dora in Roosevelt county, appropriation identification number 07-6337;

H. to the department of game and fish, to plan, design, construct, improve, renovate, equip and make emergency repairs to department of game and fish facilities statewide, appropriation identification number 07-3737;

I. to the Indian affairs department:

~~[(1) to plan, design and construct a steel office building complex, including utility connections, fencing and site preparation, for the Red Lake chapter of the Navajo Nation in McKinley county, appropriation identification number 07-6274; and]~~
LINE-ITEM VETO

(2) to plan, design, construct, purchase and install improvements, furnishings and equipment, including information technology and improvements to the parking lot, at the Thoreau health station in Thoreau in McKinley county, appropriation identification number 07-6279;

J. to the interstate stream commission, for a pipeline extension in Bluewater Village for the Bluewater Toltec irrigation district in Cibola county, appropriation identification number 07-6448;

K. to the local government division of the department of finance and administration:

(1) for affordable housing in Portales in Roosevelt county, appropriation identification number

07-3761;

(2) to plan, design and construct improvements to parks in Socorro in Socorro county, appropriation identification number 07-3767;

(3) to construct short-term housing for people who are HIV positive in need of short- and long-term mental health treatment in Bernalillo county, appropriation identification number 07-6117;

(4) for passenger rail service design and engineering for the Albuquerque station project and an economic development project in the Barelitas and south Broadway neighborhoods of Albuquerque in Bernalillo county, appropriation identification number 07-6118;

(5) for a Blackdom memorial in Roswell in Chaves county, appropriation identification number 07-6160;

(6) to plan, design and construct a Blackdom memorial in Roswell in Chaves county, appropriation identification number 07-6164;

(7) to plan, design, construct and equip a sports park in Angel Fire in Colfax county, appropriation identification number 07-6190;

(8) to improve and renovate the learning center in Raton in Colfax county, appropriation identification number 07-6193;

~~[(9) to make improvements to ball fields in Espanola in Rio Arriba county, appropriation identification number 07-6324;]~~ *LINE-ITEM VETO*

(10) to make improvements to ball fields in Espanola in Rio Arriba county, appropriation identification number 07-6325;

(11) to plan, design, construct and acquire land for a regional animal shelter in Farmington in San Juan county, appropriation identification number 07-6352;

(12) for improvements, including site improvements and planning, design, purchase, installation, equipping and furnishing of a modular building, for La Cienega community center in Santa Fe county, appropriation identification number 07-6381;

(13) for planning, designing, site improvements and purchase and installation of a modular building for a community center in La Puebla in Santa Fe county, appropriation identification number 07-6390;

(14) for improvements to the Oscar Huber memorial ballpark in Madrid in Santa Fe county, appropriation identification number 07-6393;

(15) to plan, design, construct and equip the Veguita health and community center in Socorro county, appropriation identification number 07-6408;

(16) to plan, design, construct, renovate, equip and furnish improvements to a multiuse building in Questa in Taos county, appropriation identification number 07-6421; and

(17) to plan, design and construct improvements to Casa San Ysidro, including a visitor center and a bridge, in Corrales in Sandoval county, appropriation identification number 07-6468; and

L. to the department of transportation:

(1) to plan, design and construct improvements to Merlida alley in the Alamosa neighborhood of Albuquerque in Bernalillo county, appropriation identification number 07-6124;

(2) for drainage improvements, including resurfacing, to United States highway 70/380 and adjacent areas in Chaves county, appropriation identification number 07-6155; and

(3) to plan, design, construct and acquire rights of way for drainage improvements in Rodey in Dona Ana county, appropriation identification number 07-6206.

Chapter 105 Section 3 Laws 2010

Section 3. REVERSION OF BALANCES FROM LAWS 2008 GENERAL FUND APPROPRIATIONS FOR CERTAIN CAPITAL PROJECTS.--Notwithstanding the requirements for reversion contained in Section 6-29-9 NMSA 1978 or in Laws 2008, Chapter 83 or 92, [~~and except as provided in Section 21 of this act,~~] on the effective date of this act, the unexpended or uncommitted balances of appropriations made from the general fund in Laws 2008, Chapter 83 or 92 to the following agencies for the following described projects, as further identified by the department of finance and administration appropriation identification number, shall revert to the general fund, and, within thirty days of the effective date of this act, the department of finance and administration shall transfer such unexpended or uncommitted balances to the general fund: *LINE-ITEM VETO*

A. to the aging and long-term services department:

(1) to purchase and equip vehicles for senior centers citywide in Albuquerque in Bernalillo county, appropriation identification number 08-3342;

(2) to purchase and equip vehicles for the Pueblo of Laguna senior center in Cibola county, appropriation identification number 08-3348;

(3) to make improvements for building-code compliance, including purchase and installation of equipment, at Munson senior center in Las Cruces in Dona Ana county, appropriation identification number 08-3352;

(4) to purchase and equip vehicles for senior centers citywide in Las Cruces in Dona Ana county, appropriation identification number 08-3353;

(5) for improvements, including upgrades to comply with the Americans with Disabilities Act of 1990 and including lighting, access ramps and bathrooms, at the San Miguel senior community center in Dona Ana county, appropriation identification number 08-3354;

(6) to purchase and equip vehicles for senior centers located in Gila, Mimbres and Silver City in Grant county, appropriation identification number 08-3355;

~~[(7) to plan, design and construct a senior center in the Upper Fruitland chapter of the Navajo Nation in San Juan county, appropriation identification number 08-3374;]~~ *LINE-ITEM VETO*

(8) to purchase and equip vehicles for senior centers countywide in San Miguel county, appropriation identification number 08-3375;

(9) to purchase and equip vehicles for senior centers countywide in Sandoval county, appropriation identification number 08-3378;

(10) to purchase and equip vehicles for the Pueblo of San Felipe senior center in Sandoval county, appropriation identification number 08-3382;

(11) to plan, design, construct and improve the Edgewood senior center in Santa Fe county, appropriation identification number 08-3383;

(12) to plan, design, equip and construct an expansion of the kitchen and community center space at the Fred Luna senior center in Los Lunas in Valencia county, appropriation identification number 08-3394; and

(13) to plan, design, construct and equip a building for the senior center of the Chichiltah chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5220;

B. to the capital program fund, to purchase, furnish and construct infrastructure for a family visitation center at the youth detention and diagnostic center in Albuquerque in Bernalillo county, appropriation identification number 08-3397;

C. to the cultural affairs department:

(1) to repair roofs on buildings at Lincoln state monument in Lincoln county, appropriation identification number 08-3402;

(2) to acquire library books, equipment and library resources for the Pueblo of Isleta library in Bernalillo county, appropriation identification number 08-3403;

(3) for interior and exterior improvements, including shelving, doors, security cameras, landscaping and signage, at the Carruthers building at the state library in Santa Fe county, appropriation identification number 08-3404;

(4) to construct an opera rehearsal hall in Santa Fe county; provided that land for the facility is donated to the state, appropriation identification number

08-3405; and

(5) to archive works of art digitally at museums statewide, appropriation identification number

08-3407;

D. to the public education department:

(1) to purchase, construct and install a portable classroom for the Christine Duncan Community charter school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3416;

(2) to purchase, install and equip a portable multiuse facility for Twenty-First Century Public Academy charter school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3418;

(3) to plan, design, construct and renovate an addition to administration at the A. Montoya elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3419;

(4) to purchase and install network printers and information technology, including related equipment, furniture and infrastructure, in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3427;

(5) to purchase and install laptops, multimedia projectors and information technology, including related equipment, furniture and infrastructure, for Albuquerque public schools in Bernalillo county, appropriation identification number 08-3428;

(6) to equip the shooting sports club teams at high schools in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3429;

(7) to plan, design, purchase and install energy-efficiency improvements to the Amy Biehl charter high school facility in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3433;

(8) for repair and improvements to exterior surfaces, including stucco, at Arroyo del Oso elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3438;

(9) to purchase and install security cameras and monitoring equipment at Arroyo del Oso elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3439;

(10) to plan and design the renovation of the library and media center at Bandelier elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3442;

(11) to purchase and install information technology, including related equipment, furniture and infrastructure, at Bel-Air elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3449;

(12) to purchase and install videoconferencing equipment at Bel-Air elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3452;

(13) to purchase and install information technology, including related equipment, furniture and infrastructure and cable television system upgrade, at Chamiza elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3456;

(14) to plan, design, construct and renovate practice space for student activities at Cibola high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3460;

(15) to purchase and install turf for the Cibola high school soccer field in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3462;

(16) to plan, design and renovate student bathrooms at Cibola high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3463;

(17) to plan, design, construct and improve the heating, ventilation and air conditioning system at Collet Park elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3467;

(18) to purchase videoconferencing technology and to purchase and install information technology, including related equipment, furniture and infrastructure, for Dennis Chavez elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3475;

(19) to purchase and install window blinds at Duranes elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3487;

(20) to purchase and install information technology, including related equipment, furniture and infrastructure, for Edward Gonzales elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3493;

(21) to purchase books and purchase and install information technology, including related equipment, furniture and infrastructure, for the library at Eubank elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3500;

(22) to purchase and install mobile mini buildings and information technology, including related equipment, furniture and infrastructure, at the Grant middle school health clinic in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3505;

(23) to plan, design and construct improvements, including stabilization, drainage and landscaping, to the early childhood play area and adjacent areas at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3509;

(24) to design, renovate and equip the production classroom, teacher lounge and student activities center at Highland high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3516;

(25) to purchase and install audiovisual laboratory, interactive whiteboard and information technology, including related equipment, furniture and infrastructure, at James Monroe middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3530;

(26) to plan, design, renovate and construct additions and renovations to storage and to the music, art and home economics rooms at Jefferson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3532;

(27) to plan, design, construct, purchase and install improvements, including east side area improvements, media center upgrade and building additions, at Jefferson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3533;

(28) to plan, design and construct a parking lot at Kennedy middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3537;

(29) to purchase and install artificial turf at the multipurpose field of La Cueva high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3544;

(30) to plan, design and construct improvements to the playfield, track and basketball courts of Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3552;

(31) to plan, design, construct and renovate gymnasiums and locker rooms, including Americans with Disabilities Act of 1990 compliance, at Madison middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3569;

(32) to purchase and install information technology, including related equipment, furniture and infrastructure, for use by severely disabled students at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3577;

(33) to plan, design, construct, improve and equip the physical education program, including fields and infrastructure, at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3580;

(34) to plan, design, construct and improve the grass field, including drainage, at Matheson Park elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3582;

(35) to plan, design, construct, purchase and equip a facility for the public academy for performing arts charter school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3608;

(36) to plan, design and construct landscaping, handicap access sidewalk, a field area, including artificial turf, a track and a retaining wall at Petroglyph elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3609;

(37) to plan, design and construct a multipurpose track at Roosevelt middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3617;

(38) to plan, design and construct improvements, including grass athletic fields, site preparation and infrastructure, to Sandia Base elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3621;

(39) to plan, design, construct and improve the pick-up, bus turnoff and parking areas at Sandia Base elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3624;

(40) for electronic upgrades for signs at Sandia high school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3628;

(41) to plan, design, renovate, construct and equip science rooms at Sandia high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3631;

(42) for communications infrastructure at Taft middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3649;

(43) to purchase and install information technology, including related equipment, furniture and infrastructure, at Taft middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3650;

(44) to purchase and install information technology, including related equipment, furniture and infrastructure, at Truman middle school and Alamosa elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3653;

(45) to purchase and install equipment for the weight room and athletic program and fields at Volcano Vista high school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3658;

(46) to purchase and install an electronic marquee at Volcano Vista high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3659;

(47) to purchase and install improvements to the athletic fields at West Mesa high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3664;

(48) to plan, design, construct, improve and equip the gymnasium at Wherry elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3669;

(49) to purchase and install information technology, including related equipment, furniture and infrastructure, and a commercial refrigerator and marquee for the health clinic at Wilson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3675;

(50) to purchase and install a marquee sign for the health clinic at Wilson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3676;

(51) to purchase and install information technology, including related equipment, furniture and infrastructure, at Wilson middle school in the

Albuquerque public school district in Bernalillo county, appropriation identification number 08-3677;

(52) to purchase and install physical education gross equipment for Wilson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3679;

(53) to plan, design and construct improvements to the physical education track at Wilson middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-3680;

(54) to purchase and install information technology, including related equipment, furniture and infrastructure, at Sunset elementary school in the Roswell independent school district in Chaves county, appropriation identification number 08-3713;

(55) to purchase and equip driver education vehicles for the Maxwell municipal school district in Colfax county, appropriation identification number 08-3718;

(56) to plan, design and construct an enclosed breezeway at Fairacres elementary school in the Las Cruces public school district in Dona Ana county, appropriation identification number 08-3726;

(57) to plan and design a special needs playground area at Valley View elementary school in the Las Cruces public school district in Dona Ana county, appropriation identification number 08-3729;

(58) to plan, design and construct a building for Cesar Chavez charter high school in the Deming public school district in Luna county, appropriation identification number 08-3744;

(59) to plan, design, purchase, construct, install and equip artificial turf at the football field, to include the surrounding area, runways and track facilities, in the Alamogordo public school district in Otero county, appropriation identification number 08-3748;

(60) to purchase and install a boiler for the heating system at Cloudcroft high school in the Cloudcroft municipal school district in Otero county, appropriation identification number 08-3749;

(61) to purchase and install information technology, including related equipment, furniture and infrastructure, at Corrales elementary school in the

Albuquerque public school district in Sandoval county, appropriation identification number 08-3771;

(62) to plan and design improvements at the athletic complex, including restrooms and concession facilities, at Rio Rancho high school in the Rio Rancho public school district in Sandoval county, appropriation identification number 08-3772;

(63) to plan, design, construct and equip a recreational and support center for the Rio Rancho public school district in Sandoval county, appropriation identification number 08-3774;

(64) to design the regional career technical center for the Santa Fe public school district in Santa Fe county, appropriation identification number 08-3783;

(65) to plan and design the drop-off area at Rio Grande elementary school in the Belen consolidated school district in Valencia county, appropriation identification number 08-3794;

(66) to purchase books for libraries in the Eldorado cluster in the Albuquerque public school district in Bernalillo county, appropriation identification number

08-5069;

(67) for equipment and educational technology for La Resolana charter school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-5078;

(68) for purchasing and installing educational technology at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-5083;

(69) to plan, design, install and construct a new roof for the weight room area of Cloudcroft high school in the Cloudcroft municipal school district in Otero county, appropriation identification number 08-5262;

(70) to replace boilers and evaporative coolers in the Bloomfield school district in San Juan county, appropriation identification number 08-5307; and

(71) to plan, design, construct, install and equip a football field at Valley middle school in the West Las Vegas public school district in San Miguel county, appropriation identification number 08-5324;

E. to the energy, minerals and natural resources department, to purchase and equip fire trucks and crew carriers for district offices statewide, appropriation identification number 08-3799;

F. to the state parks division of the energy, minerals and natural resources department:

(1) to plan, design and construct the Rio Grande nature center state park in Albuquerque in Bernalillo county, appropriation identification number 08-3800; and

(2) to plan, design and construct the Rio Grande trail in Bernalillo, Valencia, Sandoval, Socorro, Sierra, Dona Ana, Santa Fe, Rio Arriba and Taos counties, appropriation identification number 08-3801;

G. to the office of the state engineer:

(1) to acquire land for and construct the Dragonfly earthen flood control channel east of Las Cruces in Dona Ana county, appropriation identification number 08-3806;

(2) to plan, design, renovate and construct flood plain detention, retention and diversion structures in the Nogal canyon area in Otero county, appropriation identification number 08-3810;

(3) to plan drainage system improvements in Alamogordo in Otero county, appropriation identification number 08-3811; and

(4) to purchase water rights for the Don Fernando de Taos land grant in Taos county, appropriation identification number 08-3815;

H. to the department of environment:

(1) to plan, design and construct an interceptor sewer along Coors boulevard from Fortuna road to Old Coors road for the Albuquerque Bernalillo county water utility authority in Bernalillo county, appropriation identification number 08-3817;

(2) to plan, design, construct, purchase and equip a well site and facility for the Sierra Vista mutual domestic association in Bernalillo county, appropriation identification number 08-3820;

(3) to plan, design and construct improvements to the water and fire systems for the Bibo mutual domestic water consumers association in Cibola county, appropriation identification number 08-3824;

(4) to plan, design, construct, renovate and repair an addition to the sewage lagoon and wastewater system of the Pine Hill schools in Cibola county, appropriation identification number 08-3825;

(5) to plan, design and construct water system improvements, including a well and storage tank, for the San Mateo mutual domestic water consumers association in Cibola county, appropriation identification number 08-3826;

(6) to plan, design and construct a wastewater collection and treatment system for the Cubero land grant in Cibola county, appropriation identification number 08-3829;

(7) to plan, design and construct improvements to the wastewater treatment plant in Grants in Cibola county, appropriation identification number 08-3831;

(8) to plan, design and construct improvements to a well in Milan in Cibola county, appropriation identification number 08-3832;

(9) to plan, design, construct and equip an extension of sewer lines and a lift station for the San Rafael water and sanitation district in Cibola county, appropriation identification number 08-3833;

(10) to plan, design and construct water system improvements, including wells and water supply, in Melrose in Curry county, appropriation identification number 08-3835;

(11) to plan and design sewer system extensions, including an engineering study, in Hope in Eddy county, appropriation identification number 08-3866;

(12) to plan, design, construct, equip and furnish improvements to the water system for the Lake Roberts water users association in Grant county, appropriation identification number 08-3867;

(13) to plan, design, construct, equip and furnish improvements to the water system in Virden in Hidalgo county, appropriation identification number 08-3872;

(14) to plan, design and construct water system improvements, including water tanks, in the Ya-Tah-Hey water and sanitation district in McKinley county, appropriation identification number 08-3881;

(15) to plan, design, construct and install water system improvements for the Rio Chiquito mutual domestic water consumers and mutual sewage works association in Rio Chiquito in Rio Arriba and Santa Fe counties, appropriation identification number 08-3885;

(16) to plan, design and construct improvements to the water system, including pressure reducing stations and valves, for the Abiquiu mutual domestic water consumers association and mutual sewage works association in Rio Arriba county, appropriation identification number

08-3892;

(17) to plan, design, purchase, renovate and construct improvements to the portable office and site of the Cordova mutual domestic water consumers association in Rio Arriba county, appropriation identification number 08-3895;

(18) to plan, design, construct, equip and install water system improvements, including interconnections, distribution lines and connections, meters, fire hydrants and a water tank, for Los Apodaca mutual domestic water consumers association in Rio Arriba county, appropriation identification number 08-3896;

(19) to plan, design and construct a water storage tank for the Tierra Amarilla mutual domestic water association in Rio Arriba county, appropriation identification number 08-3902;

(20) to plan, design and construct infrastructure for the water transmission system for the Blanco mutual domestic water consumers and mutual sewage works association in San Juan county, appropriation identification number 08-3904;

(21) to design and construct a treatment unit for the Southside mutual domestic water association in San Juan county, appropriation identification number 08-3907;

(22) to plan, design and construct water system improvements, expansions and a storage facility for the Ledoux mutual domestic water consumers and mutual sewage works association in San Miguel county, appropriation identification number 08-3910;

(23) to plan, design, construct and install water system improvements for the Lower Colonias mutual domestic water consumers association in San Miguel county, appropriation identification number 08-3911;

(24) to plan, design and construct water system improvements for the San Luis-Cabezon mutual domestic water association in Sandoval county, appropriation identification number 08-3917;

(25) to plan, design and construct water system improvements for the Canoncito at Apache Canyon mutual domestic water consumers and mutual sewage works association in Santa Fe county, appropriation identification number

08-3922;

(26) to plan, design, construct and equip improvements to the water system in Galisteo in Santa Fe county, appropriation identification number 08-3924;

(27) to purchase land and to plan, design and construct a water storage tank A, including transmission lines, booster pumps and all appurtenances, for the Eldorado area water and sanitation district in Santa Fe county, appropriation identification number 08-3928;

(28) to plan, design and construct a recycling center building, including site preparation and electrical hookup, in Taos county, appropriation identification number 08-3934;

(29) to plan, design and construct a deep-water well at the Taos regional airport in Taos county, appropriation identification number 08-3937;

(30) to plan, design, construct, renovate and install water system improvements for the Vadito mutual domestic water consumers association in Mora in Mora county, appropriation identification number 08-3938;

(31) to plan, design and construct water system improvements, including a water line and water meter installation, for the Valdez mutual domestic water consumers and mutual sewage works association in Valdez in Taos county, appropriation identification number 08-3939;

(32) to plan, design, renovate, expand and construct improvements to the Conejo transfer station building in Valencia county, appropriation identification number 08-3941;

(33) to plan, design and construct arsenic treatment facilities at wells number 6 and 8 in Belen in Valencia county, appropriation identification number 08-3942;

(34) to plan, design and construct improvements, including a de-watering system, to the wastewater treatment plant in Bosque Farms in Valencia county, appropriation identification number 08-3944; and

(35) to improve the Pine Hill school sewer lagoon in Cibola county, appropriation identification number 08-5119;

I. to the department of finance and administration:

(1) to plan, design and construct housing and infrastructure using green building technologies for the Desert Sage housing project in Santa Fe in Santa Fe county pursuant to the Affordable Housing Act, appropriation identification number 08-3948;

~~[(2) for film and media production, education and training facilities and other film initiatives statewide, appropriation identification number 08-3954;] *LINE-ITEM VETO*~~

(3) to plan, design, construct and equip local fair and arena facilities, including expenditures related to the rodeo statewide, appropriation identification number 08-3953;

(4) to plan, design and construct utility and road infrastructure for the affordable housing project at Chamisa Verde pursuant to the Affordable Housing Act in Taos in Taos county, appropriation identification number 08-3955;

(5) to renovate, equip, furnish and landscape a congregate housing facility providing emergency services to at-risk youth in Taos county pursuant to the Affordable Housing Act, appropriation identification number 08-3956;

(6) to provide technical assistance and to plan, design and construct acequias statewide, appropriation identification number 08-3957; and

(7) to plan, design, construct and renovate the Second Chance substance abuse and alcohol treatment rehabilitation westside facility in Albuquerque in Bernalillo county, appropriation identification number 08-5017;

J. to the department of health, to acquire a facility, including renovation of the existing facility, for a respite and family resource center in senate district 23 for developmentally disabled and autistic children, appropriation identification number 08-5034;

~~[K. to the human services department, for domestic violence projects to ensure that domestic violence programs and shelters statewide maintain facilities that allow for consistent domestic violence service delivery; such services may include education, counseling, intervention services and the planning, design, constructing, equipping and furnishing of shelters statewide, appropriation identification number 08-3960;] *LINE-ITEM VETO*~~

L. to the Indian affairs department:

(1) to plan, design and construct repairs and restoration to the Indian pueblo cultural center, including improvements to the structure, water and sewer lines, electrical and security systems and murals, in Albuquerque in Bernalillo county, appropriation identification number 08-3962;

(2) to purchase a road grader for the To'hajiilee chapter of the Navajo Nation in Bernalillo county, appropriation identification number 08-3964;

(3) to construct and equip the Shiprock municipal water and wastewater systems for the Shiprock chapter of the Navajo Nation in McKinley county, appropriation identification number 08-3974;

(4) to plan and design utility extensions, including right-of-way acquisitions, in the Coyote Canyon chapter of the Navajo Nation in McKinley county, appropriation identification number 08-3983;

(5) to plan, design and construct a head start center in the Iyanbito chapter of the Navajo Nation in McKinley county, appropriation identification number 08-3985;

(6) to plan, design and construct the Kin Hozhoni veterans hall, including site preparation and demolition of a structure, in the Manuelito chapter of the Navajo Nation in McKinley county, appropriation identification number 08-3987;

(7) to acquire land and rights of way for and to plan, design and construct a waterline extension in the Mexican Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 08-3989;

(8) to plan, design, construct, renovate and improve the community recreation center on the Red Lake chapter of the Navajo Nation in McKinley county, appropriation identification number 08-3992;

(9) to plan and design a first response building for the Thoreau chapter of the Navajo Nation in McKinley county, appropriation identification number 08-3994;

(10) to plan, design and construct power line extensions in the Thoreau chapter of the Navajo Nation in McKinley county, appropriation identification number

08-3995;

(11) to plan and design a veterans' center in the Tohatchi chapter of the Navajo Nation in McKinley county, appropriation identification number 08-3998;

(12) to plan, design and construct an irrigation project in the Newcomb chapter of the Navajo Nation in San Juan county, appropriation identification number 08-4021;

(13) to plan, design, construct and equip a first-response building in the San Juan chapter of the Navajo Nation in San Juan county, appropriation identification number 08-4022;

(14) to plan, design and construct a parking lot at the chapter house of the White Rock chapter of the Navajo Nation in San Juan county, appropriation identification number 08-4026;

(15) to plan, design and construct a wireless internet canopy, including radio antennas, at the Pueblo of Zia in Sandoval county, appropriation identification number 08-4036;

(16) to plan, design, construct and equip an administrative technology center, including information technology and related equipment, furniture and infrastructure, for the Ramah Navajo school board in Cibola county, appropriation identification number 08-5139;

(17) to purchase a motor grader for the Baahaali chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5212;

(18) to plan, design and construct infrastructure improvements, including a sewer lagoon and water lines, and to plan, design and construct a recreational facility and multipurpose building in the Rock Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5236;

(19) to construct and equip renovations to the community library in Ohkay Owingeh in Rio Arriba county, appropriation identification number 08-5290;

(20) to plan, design and renovate a chapter house in the Lake Valley chapter of the Navajo Nation in San Juan county, appropriation identification number 08-5310; and

(21) to purchase, construct and install a modular building unit for child development education in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county, appropriation identification number 08-5314;

M. to the interstate stream commission:

(1) to plan, design and construct improvements to a reservoir in the Seboyeta community irrigation system acequia in Cibola county, appropriation identification number 08-4048;

(2) to plan, design and construct a pipeline for the Antelope Valley irrigation district in Colfax county, appropriation identification number 08-4049;

(3) to plan, design and construct improvements, including a river crossing, lining, diversion and outlet, for the acequia de Rainsville norte in Mora county, appropriation identification number 08-4053;

(4) to plan, design and construct a pipeline at la acequia del Alto Sur de Mora in Cleveland in Mora county, appropriation identification number 08-4055;

(5) to plan, design and construct improvements to the acequia de los Espinosas in Chimayo in Rio Arriba and Taos counties, appropriation identification number 08-4056;

(6) to plan, design and construct a water banking and conservation program for acequias in the lower Rio Chama valley, including planning, designing and mapping, for the Rio Chama acequia association in Rio Arriba county, appropriation identification number 08-4060;

(7) to make improvements to the acequia de Los Ranchos in Chimayo in Santa Fe and Rio Arriba counties, appropriation identification number 08-4061;

(8) to plan, design, construct and repair the Jackson ditch acequia in San Juan county, appropriation identification number 08-4064;

(9) to plan, design and construct improvements to the acequia de Molino in San Miguel county, appropriation identification number 08-4065;

(10) to purchase, install and construct improvements and repairs to the acequias Nueva, Llano and Comunidad in Nambe in Santa Fe county, appropriation identification number 08-4082;

(11) to plan, design and repair the Cuchilla ditch in Des Montes in Taos county, appropriation identification number 08-4089;

(12) to design and construct a water storage tank and delivery system in Cerro in Taos county, appropriation identification number 08-4092;

(13) to plan, design and construct a diversion dam on the east Sandoval lateral acequia in Sandoval county, appropriation identification number 08-5327; and

(14) to plan, design and construct a diversion dam on the east Sandoval lateral acequia in Sandoval county, appropriation identification number 08-5328;

N. to the local government division of the department of finance and administration:

(1) to purchase and install information technology, including related equipment, furniture and infrastructure, at a shelter for homeless women and families in Bernalillo county, appropriation identification number

08-4094;

(2) to purchase automated license plate readers for the county sheriff's office in Bernalillo county, appropriation identification number 08-4098;

(3) to renovate and equip the district 1 public health office facility in Bernalillo county, appropriation identification number 08-4102;

(4) to purchase and equip a patrol vehicle for the sheriff's department in Bernalillo county, appropriation identification number 08-4104;

(5) to purchase and renovate a warehouse and distribution center in Bernalillo county to expand services to food banks and agencies statewide, appropriation identification number 08-4107;

(6) to plan, design, construct and equip the spay-neuter clinic in the south valley in Bernalillo county, appropriation identification number 08-4111;

(7) to plan, design, construct, purchase, equip, furnish and install improvements to the library in the Alamosa multipurpose center in Albuquerque in Bernalillo county, appropriation identification number 08-4112;

(8) to plan, design, construct and improve, including turf removal and replacement, at Academy Hills park in Albuquerque in Bernalillo county, appropriation identification number 08-4113;

(9) to plan, design and construct improvements to Alamosa park in Albuquerque in Bernalillo county, appropriation identification number 08-4116;

(10) to plan, design and construct fencing for the Alamosa skate park in Albuquerque in Bernalillo county, appropriation identification number 08-4117;

(11) to plan, design, construct and install roads, sidewalks, street lights and related infrastructure, including water lines and sewers, at the city-owned Arbolera de Vida community in Albuquerque in Bernalillo county, appropriation identification number 08-4118;

(12) to plan, design and construct an Asian-American cultural center in city council district 6 in Albuquerque in Bernalillo county, appropriation identification number 08-4119;

(13) to plant trees on city-owned land, medians and roadways in Albuquerque in Bernalillo county, appropriation identification number 08-4121;

(14) to construct a memorial to New Mexicans killed in combat during operation enduring freedom and during operation Iraqi freedom, in Afghanistan and Iraq, in Albuquerque in Bernalillo county, appropriation identification number 08-4123;

(15) to plan, design and construct the cultural center of the southwest in Albuquerque in Bernalillo county, appropriation identification number 08-4124;

(16) to purchase and equip vans for a multipurpose center for people with disabilities in Albuquerque in Bernalillo county, appropriation identification number 08-4129;

(17) to purchase and install recreation equipment at the East San Jose community center in Albuquerque in Bernalillo county, appropriation identification number 08-4130;

(18) to plan, design, construct, purchase, equip and install, including shade structures and dugouts, bleachers and field equipment, for the city-owned Eastdale little league in Albuquerque in Bernalillo county, appropriation identification number 08-4131;

(19) to plan, design and equip Eastdale little league fields with artificial turf in Albuquerque in Bernalillo county, appropriation identification number 08-4132;

(20) to purchase fitness equipment and to purchase and install information technology, including related equipment, furniture and infrastructure, for youth in Albuquerque in Bernalillo county, appropriation identification number 08-4136;

(21) to acquire, plan, design, expand, improve and equip a facility for flamenco arts and education in Albuquerque in Bernalillo county, appropriation identification number 08-4137;

(22) to purchase and install improvements, including playground equipment, at Goodrich park in Albuquerque in Bernalillo county, appropriation identification number 08-4140;

(23) to plan, design, construct, purchase, equip and furnish a building for a holocaust and intolerance museum in Albuquerque in Bernalillo county, appropriation identification number 08-4141;

(24) to purchase and install information technology, including related equipment, furniture and infrastructure, at a city-owned center for homeless children and families in Albuquerque in Bernalillo county, appropriation identification number 08-4142;

(25) for planning and for purchasing and installing furniture and equipment, including surveillance equipment, fencing and an intercom system, at the Albuquerque Indian center in Albuquerque in Bernalillo county, appropriation identification number 08-4143;

(26) to plan, design and construct improvements to a building at Jerry Cline park in Albuquerque in Bernalillo county, appropriation identification number 08-4145;

(27) to design and construct improvements, including resurfacing and lighting, at the tennis courts at Jerry Cline park in Albuquerque in Bernalillo county, appropriation identification number 08-4146;

(28) to plan, design, purchase and construct renovations to the Lobo baseball field in compliance with the Americans with Disabilities Act of 1990, including a concession building, in Albuquerque in Bernalillo county, appropriation identification number 08-4149;

(29) to renovate the Lomas-Tramway branch library in Albuquerque in Bernalillo county, appropriation identification number 08-4151;

(30) to replace the roof of the main branch of the Albuquerque public library in Bernalillo county, appropriation identification number 08-4152;

(31) to plan, design, construct and equip the Manzano Mesa multigenerational center in Albuquerque in Bernalillo county, appropriation identification number

08-4153;

(32) to plan, design, construct and renovate, including a gift shop, a multipurpose center for the disabled in Albuquerque in Bernalillo county, appropriation identification number 08-4157;

(33) to plan, design, renovate and construct the Albuquerque museum of art and history in Albuquerque in Bernalillo county, appropriation identification number

08-4159;

(34) to plan, design and construct external infrastructure at the national museum of nuclear science and history in Albuquerque in Bernalillo county, appropriation identification number 08-4160;

(35) to plan and design a park on Casa Verde NW in Albuquerque in Bernalillo county, appropriation identification number 08-4164;

(36) to purchase and install automated license plate readers for the Albuquerque police department in Albuquerque in Bernalillo county, appropriation identification number 08-4165;

(37) to purchase, install and equip portable classroom buildings for homeless residents of Albuquerque in Bernalillo county, appropriation identification number

08-4166;

(38) to plan, design and construct trails along the Rio Grande bosque in Albuquerque in Bernalillo county, appropriation identification number 08-4170;

(39) to construct, equip and furnish an insectarium and insect laboratory at the Rio Grande botanical gardens in Albuquerque in Bernalillo county, appropriation identification number 08-4171;

(40) to plan, design and construct improvements to Robinson park in Albuquerque in Bernalillo county, appropriation identification number 08-4172;

(41) to plan, design and construct improvements to the Sandia science and technology park in Albuquerque in Bernalillo county, appropriation identification number 08-4173;

(42) to plan, design, construct and renovate the Second Chance substance abuse and alcohol treatment rehabilitation westside facility in Albuquerque in Bernalillo county, appropriation identification number 08-4174;

(43) to plan, design and construct sidewalks in the Wells Park, Sawmill, downtown neighborhood association and Old Town areas of Albuquerque in Bernalillo county, appropriation identification number 08-4175;

(44) to refurbish and repair the south Broadway library, including waterproofing exterior masonry walls and the purchase and installation of furniture, equipment and lighting upgrades, in Albuquerque in Bernalillo county, appropriation identification number 08-4176;

(45) to plan and design the expansion of the Thomas Bell satellite facility in Albuquerque in Bernalillo county, appropriation identification number 08-4182;

(46) to plan, design and construct renovations to the city-owned Thunderbird little league field and to improve the facility to comply with the Americans with Disabilities Act of 1990 in Albuquerque in Bernalillo county, appropriation identification number 08-4183;

(47) to plan and design a transportation museum at the Atchison, Topeka and Santa Fe rail yards in Albuquerque in Bernalillo county, appropriation identification number 08-4184;

(48) for reforestation, including pruning and removing existing trees and the planting of new trees, in the University Heights area of Albuquerque in Bernalillo county, appropriation identification number 08-4185;

(49) to acquire open space land at Vista del Norte in Albuquerque in Bernalillo county, appropriation identification number 08-4187;

(50) for improvements to Westgate little league park in house district 13 in Albuquerque in Bernalillo county, appropriation identification number 08-4189;

(51) to plan, design, construct and equip improvements at the city-owned Zia little league complex in Albuquerque in Bernalillo county, appropriation identification number 08-4190;

(52) to plan, design, construct, repair, purchase and install the roofs and dental equipment at the community dental Hinkle clinic in Albuquerque in Bernalillo county, appropriation identification number 08-4192;

(53) to purchase, plan, design, construct, equip and furnish a Dr. Martin Luther King, Jr., memorial and center in Albuquerque in Bernalillo county, appropriation identification number 08-4195;

(54) to acquire land for a youth sports park at the intersection of interstate 40 and interstate 25 in Albuquerque in Bernalillo county, appropriation identification number 08-4196;

(55) to plan, design and construct improvements to the village community center barn in Los Ranchos de Albuquerque in Bernalillo county, appropriation identification number 08-4201;

(56) to purchase and upgrade road maintenance equipment, including a tractor and related implements, for Los Ranchos de Albuquerque in Bernalillo county, appropriation identification number 08-4203;

(57) to purchase and install lighting, furniture and signage improvements at the East Mountain library in Tijeras in Bernalillo county, appropriation identification number 08-4204;

(58) to purchase and install emergency rescue equipment and mobile storage in Quemado in Catron county, appropriation identification number 08-4205;

(59) to plan, design and construct a community outdoor recreation area, including a rodeo arena, shooting range, bicycle trail, walking trail and picnic area, in Quemado in Catron county, appropriation identification number 08-4206;

(60) to plan, design, construct, renovate, equip and furnish the county-owned St. Mary's complex in Roswell in Chaves county, appropriation identification number 08-4215;

(61) to purchase former land grant lands for the Cubero land grant in Cibola county; provided that the appropriation is contingent upon the community land grant-merced complying with the provisions of Chapter 49, Article 1 NMSA 1978 and the Audit Act, appropriation identification number 08-4228;

(62) to plan, design, renovate and construct additions and improvements, including drainage, to the district court and county building in Grants in Cibola county, appropriation identification number 08-4229;

(63) to plan, design, construct, equip and furnish an addition to the mental health facility in Colfax county, appropriation identification number 08-4236;

(64) to purchase and equip a water tender for the volunteer fire department in Springer in Colfax county, appropriation identification number 08-4243;

(65) to purchase, construct and furnish refrigerator and freezer units for a food bank in Clovis in Curry county, appropriation identification number 08-4246;

(66) to purchase and renovate a building for the region 4 housing authority in Clovis in Curry county, appropriation identification number 08-4247;

(67) to plan, design and construct improvements to the firearms and training range, including the purchase of equipment, additional ranges, a training complex structure and an emergency vehicle operations driving track, for the sheriff's department in Dona Ana county, appropriation identification number 08-4263;

(68) to purchase land for, plan, design and construct a sports complex facility in Chamberino in Dona Ana county, appropriation identification number 08-4268;

(69) to plan, design, construct and equip the boxing activity club in Dona Ana in Dona Ana county, appropriation identification number 08-4270;

(70) to plan, design and construct an addition to a county family residency center in Las Cruces in Dona Ana county, appropriation identification number 08-4275;

(71) to plan, design, construct, renovate, improve and furnish the city animal shelter in Las Cruces in Dona Ana county, appropriation identification number 08-4277;

(72) to plan, design, construct, renovate and equip the East Mesa multigenerational center in Las Cruces in Dona Ana county, appropriation identification number 08-4280;

(73) to purchase and equip a handicapped-accessible van for transportation for developmentally disabled individuals participating in residential, social and health programs in Las Cruces in Dona Ana county, appropriation identification number 08-4281;

(74) to plan, design and construct restroom facilities at the High Noon soccer complex in Las Cruces in Dona Ana county, appropriation identification number 08-4282;

(75) to plan, design, construct and equip a community garden in the Mesquite historic district in Las Cruces in Dona Ana county, appropriation identification number 08-4287;

(76) to purchase equipment for the police department in Las Cruces in Dona Ana county, appropriation identification number 08-4290;

~~[(77) to plan, design, construct, purchase, install and equip skeet and trap ranges in Las Cruces in Dona Ana county, appropriation identification number 08-4291;]~~ *LINE-ITEM VETO*

(78) to plan, design, construct and improve the park and parking lot at the Organ community center in Dona Ana county, appropriation identification number 08-4292;

(79) to plan, design and construct ballfield improvements, including an irrigation system and drainage and roadway improvements, in Tortugas in Dona Ana county, appropriation identification number 08-4295;

(80) to plan, design, construct and equip a shooting range in north Eddy county, appropriation identification number 08-4296;

(81) to plan, design, purchase, construct and equip a building for a fire station in Loving in Eddy county, appropriation identification number 08-4298;

(82) to purchase equipment for the police athletic league program in Artesia in Eddy county, appropriation identification number 08-4301;

(83) to plan, design and construct a public safety facility in Artesia in Eddy county, appropriation identification number 08-4302;

(84) to renovate and construct improvements to the beach bathhouse in Carlsbad in Eddy county, appropriation identification number 08-4308;

(85) to plan, design, construct and equip Bataan memorial park, including roadways, trails, paving, lighting and recreational equipment, in Grant county, appropriation identification number 08-4314;

(86) to purchase land for the civic center in Grant county, appropriation identification number 08-4315;

(87) to plan, design, construct, equip and furnish a community multipurpose center for the Hachita mutual domestic water consumers association in Grant county, appropriation identification number 08-4317;

(88) to resurface the main parking lot of the Gila regional medical center in Silver City in Grant county, appropriation identification number 08-4320;

(89) to purchase and install equipment and to plan, design and construct exterior repairs to the community facility in Vaughn in Guadalupe county, appropriation identification number 08-4325;

(90) to plan, design, construct, purchase, equip and furnish the Jal junior high school building for an incubator project in Jal in Lea county, appropriation identification number 08-4331;

(91) to plan, design, construct, renovate, equip and furnish a multipurpose building in Tatum in Lea county, appropriation identification number 08-4336;

(92) to plan, design, construct and equip a fire station for the Glencoe-Palo Verde fire department in Glencoe in Lincoln county, appropriation identification number 08-4338;

(93) to plan, design, construct and equip improvements and an expansion to the village hall in Ruidoso in Lincoln county, appropriation identification number

08-4342;

(94) to plan, design and construct a facility for economic development, veterans services, health services and a codetalkers museum in McKinley county, appropriation identification number 08-4349;

(95) to plan, design, remodel, construct, equip and furnish the domestic violence shelter in Gallup in McKinley county, appropriation identification number 08-4353;

(96) to plan, design, furnish, renovate and equip the northwest New Mexico council of governments building in Gallup in McKinley county, appropriation identification number 08-4357;

(97) to purchase vehicles to provide transportation to people with disabilities in the Gallup area of McKinley county, appropriation identification number 08-4361;

(98) to plan, design and construct improvements and to purchase and install equipment, including a touchscreen kiosk directory, at the Veterans' memorial park and Veterans' cemetery in Gallup in McKinley county, appropriation identification number 08-4362;

(99) to purchase a motor and chassis for a refrigerated box in Gallup in McKinley county, appropriation identification number 08-4364;

~~[(100) to plan, design and construct improvements and an addition to the Ocate-Ojo Feliz community center in Ocate in Mora county, appropriation identification number 08-4373;] LINE-ITEM VETO~~

(101) to purchase, construct and equip a community center in Watrous in Mora county, appropriation identification number 08-4375;

(102) to plan, design, construct, equip and furnish the crisis center of northern New Mexico to serve multiple counties, appropriation identification number 08-4377;

(103) to purchase a front-end loader for the Timberon water and sanitation district in Otero county, appropriation identification number 08-4381;

(104) to plan, design, purchase, construct, renovate, furnish and equip the Cope office and domestic violence shelter, including a playground and improvements to the parking lot and security system, in Alamogordo in Otero county, appropriation identification number 08-4382;

(105) to purchase and install auditorium seating in the Flickinger center for performing arts in Alamogordo in Otero county, appropriation identification number 08-4384;

(106) to plan, design, construct, renovate, equip and furnish the Plaza building for a museum of history in Alamogordo in Otero county, appropriation identification number 08-4385;

(107) to renovate and restore the Red Brick schoolhouse in Tularosa in Otero county, appropriation identification number 08-4391;

(108) to plan, design, construct, furnish and equip an enclosure for the swimming pool in Tularosa in Otero county, appropriation identification number 08-4392;

(109) to purchase and install a chassis for an ambulance in San Jon in Quay county, appropriation identification number 08-4394;

(110) to plan, design, acquire property and construct upgrades for the county-owned Chimayo museum in Santa Fe county, appropriation identification number 08-4406;

(111) to purchase, design, construct, equip and install an expansion for the animal shelter in Espanola in Rio Arriba county, appropriation identification number

08-4407;

(112) to purchase land and purchase, plan, design, construct, equip, furnish and improve the Suazo Sala building and auxiliary building for the San Joaquin del Rio de Chama land grant in Rio Arriba county, appropriation identification number 08-4411;

(113) to design and construct a storage room and conference center and renovate a multipurpose building, including bathroom compliance with the Americans with Disabilities Act of 1990, utilities hookup and replacement of doors and windows, for the acequia del Llano Quemado in Truchas in Rio Arriba county, appropriation identification number 08-4412;

(114) to plan, design, construct, furnish and equip an emergency room and trauma center for the general hospital in the Roosevelt county special hospital district in Portales in Roosevelt county, appropriation identification number 08-4415;

(115) to purchase land for, plan, design, construct and equip a regional animal shelter in Farmington in San Juan county, appropriation identification number

08-4421;

(116) to design and construct an administrative office facility for Farmington in San Juan county, appropriation identification number 08-4423;

(117) to plan and design a prenatal clinic for San Juan regional medical center in Farmington in San Juan county, appropriation identification number 08-4426;

(118) to purchase and install information technology, including related equipment, furniture and infrastructure, for the multicultural center in Bernalillo in Sandoval county, appropriation identification number 08-4448;

(119) to plan, design and construct a veterans' memorial in Bernalillo in Sandoval county, appropriation identification number 08-4449;

(120) to plan, design, construct and equip a county-owned multipurpose center and children's zone in Santa Fe county, appropriation identification number 08-4463;

(121) to plan, design and construct a community center and library in Edgewood in Santa Fe county, appropriation identification number 08-4475;

(122) to plan, design, purchase, construct, install, equip and furnish a multipurpose community center in La Puebla in Santa Fe county, appropriation identification number 08-4477;

(123) to purchase and install information technology, including related equipment, furniture and infrastructure, for use by a club for boys and girls in Santa Fe in Santa Fe county, appropriation identification number 08-4483;

(124) to purchase a van to serve people with mental illness in Santa Fe county, appropriation identification number 08-4488;

(125) to purchase property for, plan, design and construct an agricultural facility in Stanley in Santa Fe county, appropriation identification number 08-4498;

(126) to plan, design and construct improvements to Polvadera, Escondida, Veterans and San Antonio parks in Socorro in Socorro county, appropriation identification number 08-4501;

(127) to plan, design, construct and equip the northern Socorro clinic in Veguita in Socorro county, appropriation identification number 08-4508;

(128) to construct, improve and equip the indoor arena, parking lot and drainage system at the Juan I. Gonzales agricultural center in Taos county, appropriation identification number 08-4512;

(129) to plan, design and construct bleachers and restroom facilities at the rodeo grounds in Taos county, appropriation identification number 08-4516;

(130) to plan, design, construct and equip a kitchen facility, including infrastructure upgrades, in Arroyo Hondo in Taos county, appropriation identification number 08-4519;

(131) to plan, design, construct and equip a multipurpose building for the Don Fernando de Taos land grant in Taos county, appropriation identification number 08-4520;

(132) to plan, design and construct improvements to the Estancia recreational complex, including lighting and restrooms, and to the Torrance county fairgrounds, including a rodeo facility, in Estancia in Torrance county, appropriation identification number 08-4535;

(133) to plan, design and construct a community multipurpose center in Willard in Torrance county, appropriation identification number 08-4540;

(134) to purchase and equip
handicapped-accessible vehicles for youth and family services programs in Valencia county, appropriation identification number 08-4553;

(135) to purchase and equip a fire tanker for the Valencia and El Cerro fire district in Valencia county, appropriation identification number 08-4554;

(136) to purchase land at Vista del Norte for a balloon landing site in Bernalillo county, appropriation identification number 08-4976;

(137) for a transitional living facility for women with children recovering from substance abuse in Bernalillo county, appropriation identification number

08-4981;

(138) to plan, design, construct and equip a dance facility for use by a children's dance program providing in-school, after-school and weekend activities in Bernalillo county, appropriation identification number

08-4993;

(139) to acquire land for, plan, design, construct, purchase, renovate, equip and furnish a building for use by a modern dance organization serving low-income, disabled and incarcerated youth and adults in Albuquerque in Bernalillo county, appropriation identification number

08-5000;

(140) to acquire land for, plan, design, construct, purchase, renovate, equip and furnish a building for use by a modern dance organization serving low-income, disabled and incarcerated youth and adults in Albuquerque in Bernalillo county, appropriation identification number

08-5001;

(141) to acquire land for, plan, design, construct, purchase, renovate, equip and furnish a building for use by a modern dance organization serving low-income, disabled and incarcerated youth and adults in Albuquerque in Bernalillo county, appropriation identification number

08-5002;

(142) to plan, design, construct, refurbish, purchase and install playground equipment at Jade park in Albuquerque in Bernalillo county, appropriation identification number 08-5006;

(143) to plan, design and construct improvements to the Martineztown park and walkway in Albuquerque in Bernalillo county, appropriation identification number 08-5010;

(144) to purchase and install a shade structure at Phil Chacon park in the Trumbull neighborhood in Albuquerque in Bernalillo county, appropriation identification number 08-5012;

(145) to plant trees on city-owned land, medians and roadways in Albuquerque in Bernalillo county, appropriation identification number 08-5016;

(146) for equipping and improving Jerry Cline park in Albuquerque in Bernalillo county, appropriation identification number 08-5022;

(147) to purchase storytelling equipment for the Sawmill community center in Albuquerque in Bernalillo county, appropriation identification number 08-5032;

(148) to purchase land at Vista del Norte for a balloon fiesta landing site in Albuquerque in Bernalillo county, appropriation identification number 08-5049;

(149) for improvements to the Zia little league fields in Albuquerque in Bernalillo county, appropriation identification number 08-5052;

(150) to plan, design, repair, replace, remodel and construct improvements to include code compliance at the Fisk building complex in Chaves county, appropriation identification number 08-5103;

(151) for an early childhood youth center for the Pine Hill school in Cibola county, appropriation identification number 08-5113;

(152) to construct repairs, including glass replacement and framing, to the greenhouse on the Pine Hill school farm of the Ramah chapter of the Navajo Nation in Cibola county, appropriation identification number 08-5114;

(153) to plan, design, construct and equip a youth recreation area for the Pine Hill school in Cibola county, appropriation identification number 08-5118;

(154) to plan, design, construct and equip improvements to the swimming pool facility, including additions to the outdoor youth recreation area, at the Pine Hill school in Cibola county, appropriation identification number 08-5121;

(155) for improvements to the parking area, lighting, signals and landscaping, at the wellness center of the Pine Hill school in Cibola county, appropriation identification number 08-5125;

(156) to plan, design, construct and equip improvements, including an addition, to the outdoor youth recreation area of the Pine Hill school in Cibola county, appropriation identification number 08-5126;

(157) to renovate the greenhouse at the Pine Hill school farm in Cibola county, appropriation identification number 08-5127;

(158) to plan, design, construct and equip improvements to the swimming pool facility, including additions to the outdoor youth recreation area, at the Pine Hill school in Cibola county, appropriation identification number 08-5128;

(159) to renovate and equip the greenhouse at the Pine Hill school farm in Cibola county, appropriation identification number 08-5133;

(160) for repairs and renovations to the greenhouses at the Pine Hill school farm in the Ramah chapter of the Navajo Nation in Cibola county, appropriation identification number 08-5134;

~~[(161) for flood control armor in the Placitas arroyo in Dona Ana county, appropriation identification number 08-5160;~~

~~(162) to purchase land for, make improvements to, plan, design and construct tennis and basketball courts and a walking track for the Nambe head start program in Nambe in Santa Fe county, appropriation identification number 08-5182;]~~
LINE-ITEM VETO

(163) for a library building in Gila in Grant county, appropriation identification number 08-5192;

(164) for the historic Romero cabin in Los Alamos county, appropriation identification number 08-5206;

(165) to purchase information technology, including related equipment, furniture and infrastructure, for a fetal alcohol syndrome public health awareness program statewide, appropriation identification number 08-5249;

(166) for purchasing and equipping vehicles for use by an organization serving the developmentally disabled in Santa Fe and Rio Arriba counties, appropriation identification number 08-5252;

(167) to plan, design, construct and renovate buildings, including roof replacement, in the administrative complex in Otero county, appropriation identification number 08-5259;

~~[(168) to improve the boys' and girls' club in Abiquiu in Rio Arriba county, appropriation identification number 08-5273;]~~ *LINE-ITEM VETO*

(169) for a voting machine warehouse, including renovation, upgrades and equipment, in Las Vegas in San Miguel county, appropriation identification number

08-5321;

(170) for a feasibility and right-of-way study for roadway improvements to widen the road no more than thirty feet for bicycle traffic on Old Santa Fe trail between Zia road and El Gancho way and on El Gancho way in Santa Fe in Santa Fe county, appropriation identification number

08-5356; and

(171) to plan, design and construct a county building in Valencia county, appropriation identification number 08-5404;

O. to the department of transportation:

(1) to plan, design and construct roadway and pedestrian facility improvements on Eighth street between Coal avenue and Bridge boulevard in Albuquerque in Bernalillo county, appropriation identification number 08-4582;

(2) to purchase and install street lighting in the Kirtland community in Albuquerque in Bernalillo county, appropriation identification number 08-4583;

(3) to purchase and install a traffic signal at La Paz drive and Paradise boulevard in Albuquerque in Bernalillo county, appropriation identification number

08-4591;

(4) to plan, design, construct, renovate, equip and furnish a parking drop-off area, traffic improvements and a parking lot at Mitchell elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-4597;

(5) to plan, design and construct bridges over Tijeras arroyo in Tijeras in Bernalillo county, appropriation identification number 08-4599;

(6) to plan, design and construct drainage improvements to Church street in Dona Ana county, appropriation identification number 08-4605;

(7) to plan, design and construct drainage and road improvements to Vista del Oro road in Dona Ana county, appropriation identification number 08-4612;

(8) to plan, design and construct improvements, including drainage, to Amparo road in Chaparral in Dona Ana county, appropriation identification number

08-4615;

(9) to plan, design and construct drainage and improvements to Alvarez road in La Union in Dona Ana county, appropriation identification number 08-4616;

(10) to plan, design and construct road improvements at the Nenahnezad chapter of the Navajo Nation in San Juan county, appropriation identification number

08-4668;

(11) to plan, design and construct improvements on county road 67G, known as Ravens Ridge road, in Santa Fe county, appropriation identification number

08-4687;

(12) to plan, design and construct improvements to streets in Willard in Torrance county, appropriation identification number 08-4695;

(13) to plan, design and construct an access point and interchange at Miller road on interstate 25 in Belen in Valencia county, appropriation identification number 08-4700;

(14) to pave Juan Tomas and Barton roads in Bernalillo county to provide economic development opportunities in that county, appropriation identification number 08-4988;

(15) to plan, design and construct a freeway on the ramp from the Balloon Fiesta parkway to interstate 25 in Bernalillo county, appropriation identification number

08-4997;

(16) to plan, design and construct a freeway access ramp from Balloon Fiesta parkway to interstate 25 in Albuquerque in Bernalillo county, appropriation identification number 08-4998;

(17) for a rail runner spur and station at Balloon Fiesta park in Albuquerque in Bernalillo county, appropriation identification number 08-4999;

(18) to plan, design and construct road, streetscape and landscape improvements, including bus stops, curbs, sidewalks and roundabouts, at Indian school road in Albuquerque in Bernalillo county, appropriation identification number 08-5005;

(19) to plan, design and construct road improvements in Curry county, appropriation identification number 08-5147;

(20) to plan, design and construct lane extensions to McNutt road and Cristo Rey road, including a railroad bridge underpass, in Sunland Park in Dona Ana county, appropriation identification number 08-5158;

(21) to plan, design and construct drainage improvements to Rasaaf circle in Mesilla in Dona Ana county, appropriation identification number 08-5173; and

(22) to plan, design and construct a pedestrian railing at the intersection of Zia road and camino Pintores in Santa Fe in Santa Fe county, appropriation identification number 08-5358;

P. to the higher education department:

(1) to plan, design, construct and renovate the Springer branch campus of Luna community college in Colfax county, appropriation identification number 08-4703;

(2) to plan, design, purchase and construct an educational and cultural activities facility at Luna community college in San Miguel county, appropriation identification number 08-4709;

(3) to plan, design, construct, equip and furnish the auto collision lab at Luna community college in Las Vegas in San Miguel county, appropriation identification number 08-4710; and

(4) to purchase a mobile broadcast vehicle for a public radio station operating from Santa Fe community college in Santa Fe in Santa Fe county, appropriation identification number 08-4713;

Q. to the board of regents of New Mexico state university:

(1) to purchase a catering van for the school of hotel, restaurant and tourism management at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 08-4732; and

(2) to purchase a horizontal grinder-chipper for use by the Carlsbad soil and water conservation district in Eddy county, appropriation identification number 08-4738; and

R. to the board of regents of the university of New Mexico:

(1) to purchase, upgrade and install information technology, including related equipment, furniture and infrastructure, for moot courtrooms at the law school at the university of New Mexico in Albuquerque in Bernalillo county, appropriation identification number

08-4759; and

(2) to design and construct a locker room for the women's track and field program at the university of New Mexico in Albuquerque in Bernalillo county, appropriation identification number 08-4765.

Chapter 105 Section 4 Laws 2010

Section 4. CHANGE IN PURPOSE AND AUTHORIZATIONS FOR CERTAIN SEVERANCE TAX BOND PROCEEDS AUTHORIZED, APPROPRIATED OR REAUTHORIZED IN LAWS 2008.--Notwithstanding the requirements for reversion in Laws 2008, Chapter 83 or 92, [~~and except as provided in Section 21 of this act,~~] the unexpended or uncommitted balances remaining on the effective date of this act of severance tax bond proceeds authorized, appropriated or reauthorized in Laws 2008, Chapter 83 or 92 for the following described projects, as further identified by the department of finance and administration appropriation identification numbers and under the control of the following agencies, shall not be expended for their original purposes, but may be expended as provided in Sections 18 and 19 of this act or as specifically provided in any other act of the second session of the forty-ninth legislature; provided that, if severance tax bonds have not been issued for a project identified in this section or have been issued for less than the authorized amount, then the remaining authorization to issue bonds for the project is void: *LINE-ITEM VETO*

A. to the aging and long-term services department:

(1) to plan, design, construct, equip and furnish a modular building for a senior center in Paradise Hills in Bernalillo county, appropriation identification number 08-3001;

(2) for repairs and improvements to the Pueblo of Nambe senior center in Santa Fe county, appropriation identification number 08-3004;

(3) for a senior activities center in Paradise Hills in Albuquerque in Bernalillo county, appropriation identification number 08-5028;

(4) for planning, constructing, equipping and furnishing a senior center for the Church Rock chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5221;

(5) for planning, designing and constructing a senior center at the Mariano Lake chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5229;

~~[(6) for improvements to the Hogback senior center of the Navajo Nation in San Juan county, appropriation identification number 08-5299;~~

~~(7) for improvements to the Gadii'ahi senior center of the Navajo Nation in San Juan county, appropriation identification number 08-5309; and~~

~~(8) for improvements to the senior center in the Sanostee chapter of the Navajo Nation in San Juan county, appropriation identification number 08-5313;]~~
LINE-ITEM VETO

B. to the capital program fund, to acquire land for, plan, design, construct, furnish and equip the New Mexico state police forensic crime laboratory, appropriation identification number 08-3022;

C. to the cultural affairs department:

(1) to design and construct educational and office space at the museum of natural history and science in Albuquerque in Bernalillo county, appropriation identification number 08-3027; [and

~~(2) for renovations and repairs and completion of construction projects at state museum and monument facilities statewide, appropriation identification number 08-3036;]~~ *LINE-ITEM VETO*

D. to the public education department:

~~[(1) to construct a student drop-off area at Hayes middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-3045;]~~ *LINE-ITEM VETO*

(2) to plan, design and construct a student drop-off center at Hayes middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 08-5071; and

(3) to plan, design, construct and equip athletic fields and related facilities for Title IX compliance in the Las Cruces public school district in Dona Ana county, appropriation identification number 08-5170;

E. to the energy, minerals and natural resources department, for clean energy grants to public entities or innovative energy projects intended to advance solutions to energy problems that have applicability or transferability across the state or regionally, appropriation identification number 08-3068;

F. to the office of the state engineer:

~~[(1) to plan, design and construct the Las Vegas dam, including renovations to the diversion structure, in San Miguel county, appropriation identification number 08-3076; and]~~ *LINE-ITEM VETO*

(2) to purchase and install well meters for ground water measurement statewide, appropriation identification number 08-3079;

G. to the department of environment:

(1) to plan, design, construct and replace a sewer interceptor on south Coors boulevard for the Albuquerque-Bernalillo county water utility authority in Bernalillo county, appropriation identification number

08-3082;

(2) to plan, design, construct, purchase and make improvements to the water system, including water tanks and valves, in Hagerman in Chaves county, appropriation identification number 08-3085;

(3) to plan, design, construct and equip infrastructure and improvements to the wastewater system, including drainage, in Cubero in Cibola county, appropriation identification number 08-3087;

(4) to plan, design, construct and make improvements to the water and wastewater system in Grants in Cibola county, appropriation identification number 08-3088;

(5) to plan, design and construct water system improvements, including a water tank and related infrastructure, in Maxwell in Colfax county, appropriation identification number 08-3091;

(6) to purchase a roll-off truck for Springer in Colfax county, appropriation identification number 08-3092;

~~[(7) to plan, design and construct a solid waste transfer station in Carlsbad in Eddy county, appropriation identification number 08-3102;]~~ *LINE-ITEM VETO*

(8) to plan, design and construct improvements, including lining, to the landfill in Vaughn in Guadalupe county, appropriation identification number

08-3105;

(9) to plan, design and construct improvements to the effluent reuse projects in Los Alamos county, appropriation identification number 08-3116;

(10) to plan, design, construct and purchase water system improvements in Ramah in McKinley county, appropriation identification number 08-3119;

(11) to purchase equipment and a truck loader for the landfill and transfer station in Logan in Quay county, appropriation identification number 08-3127;

~~[(12) to plan, design and construct a wastewater system in Flora Vista in San Juan county, appropriation identification number 08-3134;] LINE-ITEM VETO~~

(13) to plan, design and construct improvements to the water and wastewater systems, including the distribution system, lines and tanks, in Truth or Consequences in Sierra county, appropriation identification number 08-3140; and

(14) for construction of a sewer lagoon to serve the Pine Hill school and the Ramah Navajo community in Cibola county, appropriation identification number 08-5120;

H. to the department of finance and administration, for disbursement to the New Mexico mortgage finance authority to plan, design and construct infrastructure and improvements for affordable housing pursuant to the provisions of the Affordable Housing Act in Portales in Roosevelt county, appropriation identification number 08-3149;

I. to the Indian affairs department:

(1) to repair, upgrade, equip and connect water system storage tanks for the Mescalero Apache Tribe in Mescalero in Otero county, appropriation identification number 08-3164;

~~[(2) to purchase and equip a motor grader for the Sanostee chapter of the Navajo Nation in San Juan county, appropriation identification number 08-3167;] LINE-ITEM VETO~~

(3) to plan, design, construct and equip a multipurpose law enforcement training facility at the Pueblo of Tesuque in Santa Fe county, appropriation identification number 08-3182;

(4) for a facility and parking lot in the Baahaali chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5213;

(5) to purchase road equipment for the Chichiltah chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5218;

(6) for renovating the senior center, including the purchase and installation of equipment and a storage bin, in the Crownpoint chapter of the Navajo Nation in McKinley county, appropriation identification number

08-5223;

~~[(7) to plan, design and construct infrastructure in the Rock Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5235;~~

~~(8) to plan, design and construct a multipurpose building and infrastructure improvements, including a sewer lagoon and water lines, in the Rock Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5237;] *LINE-ITEM VETO*~~

(9) to plan, design and construct a multipurpose building and infrastructure improvements, including a sewer lagoon and water lines, in the Rock Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5238;

(10) to plan, design and construct infrastructure, including a sewer lagoon, in the Rock Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5239;

(11) to plan and design a central administration center for the eight northern Indian pueblos council to house all its programs in one site in Ohkay Owingeh in Rio Arriba county, appropriation identification number 08-5289; and

(12) to purchase road graders and equipment for road graders for the Pueblo of Picuris in Taos county, appropriation identification number 08-5392;

J. to the interstate stream commission, for construction and repairs to the Espinoza ditch in Chimayo in Rio Arriba county, appropriation identification number 08-5279;

K. to the local government division of the department of finance and administration:

(1) to plan, design, construct, equip and furnish improvements to Gateway park in the south valley of Bernalillo county, appropriation identification number

08-3189;

(2) to purchase land for a balloon fiesta landing site in Albuquerque in Bernalillo county, appropriation identification number 08-3190;

(3) to plan, design, purchase, install, equip and furnish exhibits for the Anderson-Abruzzo international balloon museum in Albuquerque in Bernalillo county, appropriation identification number 08-3191;

~~[(4) to plan, design, renovate and construct improvements, including ramps, walkways, paving, renovations of concession buildings and field improvements, to city-owned Roadrunner little league facilities in Albuquerque in Bernalillo county, appropriation identification number 08-3195;] *LINE-ITEM VETO*~~

(5) to plan, design, construct and equip improvements, including landscaping, turf, drainage, parking lots and security, at the city-owned Mile High little league complex in Albuquerque in Bernalillo county, appropriation identification number 08-3196;

(6) to purchase and install synthetic turf on the softball and baseball fields at Redlands park in Albuquerque in Bernalillo county, appropriation identification number 08-3197;

(7) for improvements to Tower community park and city-owned Westgate little league facilities in Albuquerque in Bernalillo county, appropriation identification number 08-3198;

~~[(8) to purchase, plan, design, construct and equip a building, including land acquisition, in the west Central metropolitan redevelopment area in Albuquerque in Bernalillo county, appropriation identification number 08-3199;] *LINE-ITEM VETO*~~

(9) to plan, design, construct, equip and furnish a youth crisis shelter in Albuquerque in Bernalillo county, appropriation identification number 08-3200;

(10) to plan, design, construct and renovate facilities for a penguin exhibit at the Rio Grande zoo in Albuquerque in Bernalillo county, appropriation identification number 08-3201;

(11) to plan, design, construct, equip and furnish a county transitional living facility for women and children in Albuquerque in Bernalillo county, appropriation identification number 08-3203;

(12) to purchase and equip an ambulance for Catron county, appropriation identification number 08-3206;

(13) to plan, design, construct and equip a fire department substation in the Reserve area of Catron county, appropriation identification number 08-3207;

~~[(14) to design, construct, renovate and expand a housing complex for homeless veterans in Las Cruces in Dona Ana county, appropriation identification number 08-3222;] *LINE-ITEM VETO*~~

(15) to plan, design, construct, equip and furnish a youth recreational facility in Luna county, appropriation identification number 08-3239;

(16) to purchase and install improvements, including books, media, information technology and related equipment, furniture and infrastructure, for the library in Columbus in Luna county, appropriation identification number 08-3240;

(17) to plan, design, construct, renovate and equip an expansion to the fire substation, including site improvements and generator, at the airport in Deming in Luna county, appropriation identification number 08-3243;

~~[(18) to plan, design and construct mainstreet improvements, including landscaping, gateway features, lighting and bicycle and walking trails, in Gallup in McKinley county, appropriation identification number 08-3244;] LINE-ITEM VETO~~

(19) to plan, design, construct, equip and furnish a fire department substation in the Dora area in Roosevelt county, appropriation identification number 08-3252;

(20) to purchase property for, plan, design, construct, equip and furnish the San Juan regional animal shelter, including a feasibility study, in Farmington in San Juan county, appropriation identification number 08-3257;

(21) to plan, design, construct, equip and furnish fire stations seven and eight in Farmington in San Juan county, appropriation identification number 08-3258;

~~[(22) to plan, design and construct expansion and renovation of the county-owned Haven House domestic violence shelter in Rio Rancho in Sandoval county, appropriation identification number 08-3260;] LINE-ITEM VETO~~

(23) to plan, design and construct multiuse recreational fields in Edgewood in Santa Fe county, appropriation identification number 08-3264;

(24) to plan, design, construct, equip and improve the veterans' services department and first responder space of the Santa Fe rape crisis and trauma treatment center in Santa Fe in Santa Fe county, appropriation identification number 08-3269;

(25) to plan, design, construct, equip and furnish city ball field facilities at the multipurpose center in Belen in Valencia county, appropriation identification number 08-3277;

(26) to plan, design, construct, refurbish, purchase and install playground equipment at Jade park in Albuquerque in Bernalillo county, appropriation identification number 08-5007;

(27) to plan, design, construct, purchase and install improvements, including lighting, furnishings and equipment, at Los Griegos library in Albuquerque in Bernalillo county, appropriation identification number

08-5008;

(28) for improvements to the Mile High little league fields in Albuquerque in Bernalillo county, appropriation identification number 08-5011;

(29) to purchase and install a shade structure at Phil Chacon park in the Trumbull neighborhood in Albuquerque in Bernalillo county, appropriation identification number 08-5013;

(30) to purchase and install soccer field lights in Phil Chacon park in the Trumbull neighborhood of Albuquerque in Bernalillo county, appropriation identification number 08-5014;

(31) to replace the gymnasium floor at the Paradise Hills community center in Albuquerque in Bernalillo county, appropriation identification number 08-5027;

(32) for site improvements for the Paradise Hills little league in Albuquerque in Bernalillo county, appropriation identification number 08-5030;

(33) for site improvements at Los Vecinos community center in Tijeras in Bernalillo county, appropriation identification number 08-5100;

(34) to improve and expand the wastewater lagoon at the Pine Hill school in Cibola county, appropriation identification number 08-5122;

(35) to plan, design and construct improvements to a wastewater lagoon for the Pine Hill school in Cibola county, appropriation identification number

08-5123;

(36) to construct improvements to the parking area, lighting, signage and landscaping at the Pine Hill school wellness center in Cibola county, appropriation identification number 08-5124;

(37) to plan, design, construct and equip an outdoor youth recreation center for the Pine Hill school in Cibola county, appropriation identification number 08-5135;

(38) to plan, design, construct and equip improvements to a wellness center at Pine Hill school in Cibola county, appropriation identification number 08-5136;

(39) to plan, design, construct and equip a fire station in La Mesa in Dona Ana county, appropriation identification number 08-5166;

(40) for constructing a community park, including purchasing land, in Santa Teresa in Dona Ana county, appropriation identification number 08-5178;

(41) to acquire property for and to plan, design, renovate, equip and furnish the Gallup-McKinley county chamber of commerce in McKinley county, appropriation identification number 08-5209;

(42) to plan, design, renovate, construct, equip and furnish a cancer and long-term illness rehabilitation housing facility in McKinley county, appropriation identification number 08-5210;

(43) to repair the roof of the convention center at Red Rock state park in McKinley county, appropriation identification number 08-5211;

(44) for constructing an addition to La Casa de Buena Salud family health center in Portales in Roosevelt county, appropriation identification number 08-5297;

(45) to plan, design, construct and purchase rights of way for walkways and sidewalks within Jemez Springs, including bridge repair, engineering and construction, in Sandoval county, appropriation identification number 08-5330;

(46) for infrastructure improvements, purchasing vehicles and purchasing and installing information technology, including related furniture, equipment and infrastructure, at Native American behavioral health services facilities statewide, appropriation identification number

08-5377;

(47) for purchasing, constructing, repairing, equipping and furnishing Chamisal and Ranchitos community centers in Taos county, appropriation identification number 08-5383;

(48) to plan and design a children's residential treatment facility in Taos county, appropriation identification number 08-5384;

(49) to plan, design and construct a fire station for Talpa, Ranchos de Taos and Pot Creek in Taos county, appropriation identification number 08-5385;

~~[(50) to plan, design and construct an equestrian facility in Albuquerque in Bernalillo county, appropriation identification number 08-3194; and~~

~~(51) for film and media production, education and training facilities and other film initiatives statewide, appropriation identification number 08-5254;] *LINE-ITEM VETO*~~

L. to the department of transportation:

(1) to plan, design and construct improvements to the school bus routes in Grant county, appropriation identification number 08-3292;

~~[(2) to plan, design and construct road improvements to Pinehaven road in McKinley county, appropriation identification number 08-3294;] *LINE-ITEM VETO*~~

(3) to construct handicapped-accessible routes citywide that comply with the provisions of the Americans with Disabilities Act of 1990 in Alamogordo in Otero county, appropriation identification number 08-3299;

(4) to plan, design and construct street improvements, including surfacing and related infrastructure and equipment, in Socorro in Socorro county, appropriation identification number 08-3309;

(5) to plan, design, construct, equip, purchase and install a rail spur and platform at Balloon Fiesta park in Albuquerque in Bernalillo county, appropriation identification number 08-3313;

~~[(6) for improvements to Waldhauser avenue, Zuelk road and Beta street and paving between Grand avenue and Seventh street and between Mitchell and Thornton streets in Curry county, appropriation identification number 08-5151;~~

~~(7) for acquiring easements for and constructing a bridge in the Rock Springs chapter of the Navajo Nation in McKinley county, appropriation identification number 08-5234;] and *LINE-ITEM VETO*~~

(8) for a hangar for the civil air patrol at the Taos regional airport in Taos county, appropriation identification number 08-5386; and

M. to the board of regents of the university of New Mexico:

(1) to plan, design and construct a clubhouse for the university of New Mexico golf course in Albuquerque in Bernalillo county, appropriation identification number 08-3334; and

(2) for improvements to the university's works progress administration art collection at the university of New Mexico in Albuquerque in Bernalillo county, appropriation identification number 08-5046.

Chapter 105 Section 5 Laws 2010

Section 5. REVERSION OF BALANCES FROM LAWS 2009 APPROPRIATIONS FOR CERTAIN CAPITAL PROJECTS.--Notwithstanding the requirements for reversion contained in Section 6-29-9 NMSA 1978 or in Laws 2009, Chapter 125 or 128, ~~and except as provided in Section 21 of this act,~~ on the effective date of this act, the unexpended or uncommitted balances of appropriations made in Laws 2009, Chapter 125 or 128 to the following agencies for the following described projects, as further identified by the department of finance and administration appropriation identification number, shall revert to the originating fund, and, within thirty days of the effective date of this act, the department of finance and administration shall transfer such unexpended or uncommitted balances to the originating fund: *LINE-ITEM VETO*

A. to the aging and long-term services department,

to plan, design and construct kitchen improvements, equipment and furnishings at the senior center in the Chichiltah chapter of the Navajo Nation in McKinley county, appropriation identification number 09-3457;

B. to the capital program fund, for safety upgrades at the motor vehicle division office in the Bernalillo county metropolitan court complex, notwithstanding the provisions of Section 15-3B-16 NMSA 1978, appropriation identification number 09-3501;

C. to the cultural affairs department:

(1) to design, fabricate and construct exhibits at the museum of natural history and science in Albuquerque in Bernalillo county, appropriation identification number 09-3198; and

(2) to furnish, equip, landscape and make improvements to the education center and campus at the national Hispanic cultural center in Albuquerque in Bernalillo county, appropriation identification number

09-3200;

~~[D. to the economic development department, to acquire land for, plan, design and construct a meat processing plant, including site improvements, for the Ramah chapter in McKinley county, appropriation identification number 09-3449;] *LINE-ITEM VETO*~~

E. to the public education department:

(1) to purchase property and a facility for the Twenty-First Century charter school in the Albuquerque public school district in Bernalillo county, appropriation identification number 09-3245;

(2) to purchase and install educational technology, including related equipment and furniture, at A. Montoya elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 09-3246;

(3) to purchase and install educational technology, including related equipment and furniture, at Apache elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 09-3251;

(4) to purchase and install information technology, including related equipment, furniture and infrastructure, at Cibola high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 09-3253;

(5) to furnish and equip the science department at East Mountain high school in the Albuquerque public school district in Bernalillo county, appropriation identification number 09-3255;

(6) to purchase and install educational technology, including related equipment and furniture, at Roosevelt middle school in the Albuquerque public school district in Bernalillo county, appropriation identification number 09-3285;

(7) to plan, design, construct, renovate, install, furnish and equip the gymnasium and an artificial turf field at Wherry elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 09-3299;

(8) to plan, design, purchase and install outdoor, indoor and two-sided signs at Roswell high school in the Roswell independent school district in Chaves county, appropriation identification number 09-3326;

(9) to plan, design and construct surface area improvements, including asphalt, around the gymnasium and field house at Roswell high school in the Roswell independent school district in Chaves county, appropriation identification number 09-3327;

(10) to plan, design, construct, furnish, equip, purchase and improve the band storage room at Goddard high school in the Roswell independent school district in Chaves county, appropriation identification number 09-3330;

(11) to plan, design, construct and renovate the baseball field, including the purchase and installation of an outdoor two-sided electronic sign, at Goddard high school in the Roswell independent school district in Chaves county, appropriation identification number 09-3331;

(12) to plan, design, construct, renovate, purchase and install improvements, including an outdoor electronic two-sided sign and upgrades to the baseball field, at Goddard high school in the Roswell independent school district in Chaves county, appropriation identification number 09-3333;

(13) to plan, design, construct and furnish a house, including the purchase of land, for the building trades class in the Loving municipal school district in Eddy county, appropriation identification number 09-3418;

(14) to plan, design, equip and install staff wellness and exercise equipment for the Mora independent school district in Mora county, appropriation identification number 09-3499;

(15) to plan, design, construct and purchase renovations, including removal of the heating and cooling units, in the cafeteria and kitchen in the Wagon Mound public school district in Mora county, appropriation identification number 09-3500;

(16) to plan, design, purchase, construct, install and equip a lift station for the septic system at Cloudcroft high school in the Cloudcroft municipal school district in Otero county, appropriation identification number 09-3511;

(17) to prepare the site for and plan, design, construct, purchase and install playground equipment and fencing for schools and track facilities in the Cloudcroft municipal school district in Otero county, appropriation identification number 09-3513;

(18) to plan, design, construct, purchase and install improvements to the grounds at Tularosa high school in the Tularosa municipal school district in Otero county, appropriation identification number 09-3516;

(19) to equip the kitchen and playground, to purchase and install portables and to plan, design, construct, equip, furnish and make related site improvements at Carinos charter school in the Espanola public school district in Rio Arriba county, appropriation identification number 09-3533;

(20) to purchase and install buses, shop equipment and information technology, including related equipment, furniture and infrastructure, for the west Las Vegas public school district in San Miguel county, appropriation identification number 09-3578;

(21) to purchase equipment, including a soccer goal, weight equipment, parts and signs for basketball scoreboards and golf equipment, for the Rio Rancho public school district in Sandoval county, appropriation identification number 09-3591; and

(22) for equipment for the industrial arts classes in the Des Moines municipal school district in Union county, appropriation identification number 09-3705;

~~[F. to the educational retirement board, to acquire land for and plan, design and construct a building or acquire and renovate an existing building for the educational retirement board in Santa Fe in Santa Fe county, appropriation identification number 09-3149;] LINE-ITEM VETO~~

G. to the state parks division of the energy, minerals and natural resources department:

(1) to plan, design, construct and equip an education building at the Rio Grande nature center state park in Bernalillo county, appropriation identification number

09-3165; and

(2) to plan, design, construct and equip an education building at the Rio Grande nature center state park in Bernalillo county, appropriation identification number

09-3166;

H. to the office of the state engineer:

(1) to improve the north Spring river channel in Roswell in Chaves county, appropriation identification number 09-3328; and

(2) to improve the north Spring river channel in Roswell in Chaves county, appropriation identification number 09-3329;

I. to the department of environment:

(1) to plan, design and construct a solid waste transfer station, including landscaping and improving new and existing solid waste convenience stations, in Carlsbad in Eddy county, appropriation identification number 09-3414;

(2) to purchase and equip vehicles and

roll-off containers for the solid waste transfer stations in Carlsbad in Eddy county, appropriation identification number 09-3416;

(3) to plan, design and construct a potable and non-potable water system, sanitary facilities and wastewater system at the Rincon Blanco community center for the Cebolla mutual domestic water consumers and sewage works association in Rio Arriba county, appropriation identification number 09-3525;

(4) to plan, design, construct, renovate and equip a community water system for the Abiquiu mutual domestic water consumers association and mutual sewage works association in Rio Arriba county, appropriation identification number 09-3526;

(5) to plan, design and construct water system improvements for the North Star domestic water consumers and mutual sewage works cooperative in Aztec in San Juan county, appropriation identification number 09-3541;

(6) to plan, design, construct and equip improvements to the water system for the Canoncito at Apache Canyon mutual domestic water consumers association in Santa Fe county, appropriation identification number 09-3599;

(7) to plan, design, construct and equip a water system, including a storage tank, for the Stanley fire department in Santa Fe county, appropriation identification number 09-3646;

~~[(8) to plan, design and construct water and wastewater system improvements in Questa in Taos county, appropriation identification number 09-3684;]~~
and *LINE-ITEM VETO*

(9) to repair and upgrade the sewer and water systems in Mountainair in Torrance county, appropriation identification number 09-3700;

J. to the department of finance and administration:

(1) to purchase property in and around the downtown area for public facilities in Albuquerque in Bernalillo county, appropriation identification number 09-3176;

(2) to purchase and install a fire alarm system in a homeless veterans' transitional assistance housing facility in Albuquerque pursuant to the Affordable Housing Act, appropriation identification number 09-3214;

(3) to purchase and install a fire alarm system in a homeless veterans' transitional assistance housing facility in Albuquerque pursuant to the Affordable Housing Act, appropriation identification number 09-3215; and

(4) to make improvements to driveway parking, fencing and landscaping at the Taos men's homeless and transitional housing center at Salazar and Herdner roads in Taos county, appropriation identification number 09-3678;

K. to the governor's commission on disability, for vehicles for the drivers' rehabilitation program for the disabled in Albuquerque in Bernalillo county, appropriation identification number 09-3177;

L. to the Indian affairs department:

(1) to plan, design and construct a veterans' memorial at Sky city in the Pueblo of Acoma in Cibola county, appropriation identification number 09-3338;

(2) to repair the building, heating and plumbing systems at the chapter house in the Baahaali chapter of the Navajo Nation in McKinley county, appropriation identification number 09-3451;

~~[(3) for parking lot improvements at the Baahaali chapter of the Navajo Nation in McKinley county, appropriation identification number 09-3452;]~~ *LINE-ITEM VETO*

(4) for the phase 4 powerline extension in the Pueblo Pintado chapter of the Navajo Nation in McKinley county, appropriation identification number 09-3463;

(5) to plan, design, construct and renovate the Tsayatoh chapter house of the Navajo Nation in McKinley county, appropriation identification number 09-3468;

(6) to plan, design and construct renovations to the chapter house in the Tsayatoh chapter of the Navajo Nation in McKinley county, appropriation identification number 09-3469;

(7) to plan, design and construct improvements and an addition and equip and furnish a computer and resource room at the existing multipurpose building in the Tsayatoh chapter of the Navajo Nation in McKinley county, appropriation identification number 09-3470;

(8) to plan, design and construct a water line in the White Horse Lake chapter of the Navajo Nation in McKinley county, appropriation identification number 09-3473;

(9) for phase 3 for the Adobe overhead powerline extension project in the Huerfano chapter of the Navajo Nation in San Juan county, appropriation identification number 09-3543;

(10) to plan, design and construct a library at the south campus of Dine college in Shiprock in San Juan county, appropriation identification number 09-3548;

(11) to make site improvements and to construct, equip and furnish the home for women and children in Shiprock in San Juan county, appropriation identification number 09-3553; and

(12) for a childhood development center, including renovation, for the early childhood education programs for the Pueblo of Zia and five Sandoval Indian pueblos head start programs in Sandoval county, appropriation identification number 09-3598;

M. to the interstate stream commission:

(1) to plan, design and construct improvements, including improvements to ditch banks, side slopes, turnouts, checks and structures, to community acequias in the south valley of Bernalillo county, appropriation identification number 09-3160;

(2) to plan, design and construct improvements for the acequia del Lado Norte de Golondrinas association in Mora county, appropriation identification number 09-3477;

(3) to plan, design and construct improvements to El Ancon acequia in San Miguel county, appropriation identification number 09-3556;

(4) to plan, design and construct improvements to El Ancon acequia in San Miguel county, appropriation identification number 09-3557; and

(5) to plan, design and construct improvements, including gates and a diversion system, for the San Miguel community ditch and acequia in Ribera in San Miguel county, appropriation identification number 09-3576;

N. to the local government division of the department of finance and administration:

(1) to purchase and install equipment and information technology, including a storage shed, fencing, tables, chairs, portable canopies, water hoses, storage carts, a portable kiosk, a portable sound system, portable signs and banners, for the south valley growers' market in Bernalillo county, appropriation identification number

09-3167;

(2) to plan, design, purchase, install, equip and furnish exhibits for the Anderson-Abruzzo international balloon museum in Albuquerque in Bernalillo county, appropriation identification number 09-3170;

(3) to plan, design and construct an

Asian-American cultural center in city council district 6 in Albuquerque in Bernalillo county, appropriation identification number 09-3173;

(4) to equip and furnish the computer clubhouse in Albuquerque in Bernalillo county, appropriation identification number 09-3175;

(5) for exhibits, furniture, fixtures, equipment, vans, trucks, shade structures and window coverings for the Explora science center and children's museum, including planning, designing, constructing, equipping and furnishing an addition to the facility, in Albuquerque in Bernalillo county, appropriation identification number 09-3179;

(6) to design, develop, construct, purchase and install exhibits, furniture, fixtures and equipment, to purchase vans, trucks, shade structures and window coverings and to plan, design, construct, equip and furnish an addition to the Explora science center and children's museum in Albuquerque in Bernalillo county, appropriation identification number 09-3180;

(7) to design, develop, construct, purchase and install exhibits, furniture, fixtures and equipment and to purchase vans, trucks, shade structures and window coverings for the Explora science center and children's museum in Albuquerque in Bernalillo county, appropriation identification number 09-3181;

(8) for exhibits, furniture, fixtures and equipment and to purchase vans, trucks, shade structures and window coverings for the Explora science center and children's museum in Albuquerque in Bernalillo county, appropriation identification number 09-3182;

(9) for the design, development, fabrication, construction, purchase and installation of exhibits, furniture, fixtures and equipment and to plan, design, construct, furnish and equip an addition to the facility at the Explora science center and children's museum in Albuquerque in Bernalillo county, appropriation identification number 09-3183;

(10) to design, develop, construct, purchase and install exhibits, furniture, fixtures and equipment and to purchase vans, trucks, shade structures and window coverings for the Explora science center and children's museum in Albuquerque in Bernalillo county, appropriation identification number 09-3185;

(11) to plan, design, construct, equip and furnish an addition to the building and to design, construct, purchase and install exhibits, furnishings and equipment for the Explora science center and children's museum in Albuquerque in Bernalillo county, appropriation identification number 09-3186;

(12) to purchase equipment and furniture for an art activities program serving the homeless in Albuquerque in Bernalillo county, appropriation identification number

09-3191;

(13) to purchase and equip vehicles for homeless programs in Albuquerque in Bernalillo county, appropriation identification number 09-3192;

(14) to purchase and install city-owned information technology, including related equipment, furniture and infrastructure, for an organization serving children and adults with developmental disabilities in Albuquerque in Bernalillo county, appropriation identification number 09-3193;

(15) to plan, design, construct and equip facilities for a daycare program, including playground equipment, information technology and security systems, at the John Marshall health and social service center in Albuquerque in Bernalillo county, appropriation identification number 09-3194;

(16) to plan, design, construct, equip and furnish improvements to Los Duranes community center in the north valley of Albuquerque in Bernalillo county, appropriation identification number 09-3196;

(17) to plan, design, construct and equip improvements at Los Duranes park in Albuquerque in Bernalillo county, appropriation identification number 09-3197;

(18) to plan, design, construct and install public artwork in Albuquerque in Bernalillo county, appropriation identification number 09-3203;

(19) for the mid-region council of governments to plan, design, construct and equip a railroad station and parking facilities at the railroad tracks and Montano boulevard NW in the north valley of Albuquerque in Bernalillo county, appropriation identification number

09-3208;

(20) to purchase and install an outdoor awning at the Raymond G. Sanchez center in Albuquerque in Bernalillo county, appropriation identification number

09-3209;

(21) to plan, purchase and construct a county early childhood development center in the southeast heights of Albuquerque in Bernalillo county, appropriation identification number 09-3211;

(22) to plan and design a boys' and girls' club in the south valley of Albuquerque in Bernalillo county, appropriation identification number 09-3213;

(23) to purchase and install dental equipment and information technology, including related equipment, furniture and infrastructure, in Albuquerque in Bernalillo county, appropriation identification number

09-3218;

(24) to plan, design and construct open space improvements at the Rio Grande Valley state park and adjacent public property at Central avenue northwest and southwest of the Rio Grande in Albuquerque in Bernalillo county, appropriation identification number 09-3230;

(25) to purchase land for and to plan, design and construct site improvements and parking facilities near Los Ranchos de Albuquerque train stop in Bernalillo county, appropriation identification number 09-3302;

(26) for the mid-region council of governments to improve and expand Los Ranchos journal center parking lot to serve the rail runner railroad station in Los Ranchos de Albuquerque in Bernalillo county, appropriation identification number 09-3303;

(27) for a memorial, including a statue, to honor the 1956 little league world champions and for improvements to the little league fields, including a sound system, in Chaves county, appropriation identification number 09-3307;

(28) to plan, design and construct improvements, including installing and equipping the baseball field and concession area, to the baseball field in Lake Arthur in Chaves county, appropriation identification number 09-3317;

(29) to plan, design, purchase, construct, furnish and equip a prefabricated building for a courthouse, including a parking lot, in Lake Arthur in Chaves county, appropriation identification number 09-3320;

(30) to purchase and equip public works vehicles, including utility maintenance carts, for Lake Arthur in Chaves county, appropriation identification number 09-3321;

(31) to plan, design and construct a medical office building for the county hospital facility in Cibola county, appropriation identification number 09-3335;

(32) to plan, design, construct, improve and equip a medical office building for the county hospital facility in Cibola county, appropriation identification number 09-3337;

(33) to plan, design and construct improvements to parks in Grants in Cibola county, appropriation identification number 09-3342;

(34) to plan, design, construct, purchase and equip improvements to the public library in Grants in Cibola county, appropriation identification number 09-3343;

(35) to plan, design, construct, purchase and equip an administrative technology center at the Pine Hill school in Cibola county, appropriation identification number 09-3345;

(36) to acquire environmental clearances and to plan, design, construct and equip a park in Eagle Nest in Colfax county, appropriation identification number 09-3350;

(37) to plan and design the development of a criminal justice complex in Clovis in Curry county, appropriation identification number 09-3352;

(38) to plan, design, construct, equip and furnish improvements and renovations to the Curry county courthouse, appropriation identification number 09-3353;

~~[(39) to purchase and install information technology, including related equipment, furniture and infrastructure, at the De Baca county clerk's office in Fort Sumner in De Baca county, appropriation identification number 09-3355;] *LINE-ITEM VETO*~~

(40) to plan, design, equip, purchase and install a portable building for a sheriff's substation, including site improvements, in Butterfield in Dona Ana county, appropriation identification number 09-3357;

(41) to plan, design, equip, purchase and install a portable building for a sheriff's substation, including site improvements, in Butterfield in Dona Ana county, appropriation identification number 09-3358;

(42) to purchase and install an electronic records system and related technology and other dental equipment for la clinica de familia throughout Dona Ana county, appropriation identification number 09-3361;

(43) to purchase and install an electronic records system, related technology and other dental equipment at la clinica de familia facilities throughout Dona Ana county, appropriation identification number 09-3362;

(44) to purchase land for and to plan, design, construct, equip and furnish a multipurpose sports complex facility in Chamberino in Dona Ana county, appropriation identification number 09-3367;

(45) to purchase land for and to plan, design, construct, equip and furnish a multipurpose sports complex facility in Chamberino in Dona Ana county, appropriation identification number 09-3368;

(46) to renovate and equip the multipurpose center in La Union in Dona Ana county, appropriation identification number 09-3372;

(47) to renovate and equip the multipurpose center in La Union in Dona Ana county, appropriation identification number 09-3373;

~~[(48) to purchase San Miguel elementary school in the Gadsden independent school district for a community center in San Miguel in Dona Ana county, appropriation identification number 09-3393;~~

~~(49) to acquire property for and construct and equip improvements, including land and buildings, to a multipurpose complex in San Miguel in Dona Ana county, appropriation identification number 09-3395;~~

~~(50) to acquire property for and construct and equip improvements, including land and buildings, to a multipurpose complex and center in San Miguel in Dona Ana county, appropriation identification number 09-3396;~~

~~(51) to acquire property for and construct and equip improvements, including land and buildings, to a multipurpose complex and center in San Miguel in Dona Ana county, appropriation identification number 09-3397;~~

~~(52) to acquire property for and construct and equip improvements, including land and buildings, to a multipurpose complex and center in San Miguel in Dona Ana county, appropriation identification number 09-3398;~~

~~(53) to acquire property for, including land and buildings, and equip, construct and improve a multipurpose center in San Miguel in Dona Ana county, appropriation identification number 09-3399;] *LINE-ITEM VETO*~~

(54) to purchase land for and plan, design, construct, remodel, equip and furnish renovations to a building for a drug rehabilitation program in Eddy county, appropriation identification number 09-3402;

(55) to purchase land for, plan, design, construct, purchase, remodel, renovate, equip and furnish a building for a drug rehabilitation facility in Eddy county, appropriation identification number 09-3403;

(56) to purchase land for, plan, design, construct, purchase, renovate, equip and furnish a building for a drug rehabilitation program in Eddy county, appropriation identification number 09-3406;

(57) to plan, design, purchase, construct and expand a general purpose classroom for work force development for the Artesia vocational training center in Artesia in Eddy county, appropriation identification number 09-3409;

(58) for planning, designing, renovating, constructing, improving, equipping and furnishing the Pecos River village conference center in Carlsbad in Eddy county, appropriation identification number 09-3417;

(59) to plan, design, construct, purchase, renovate, remodel and equip medical and dental facilities in Grant county, appropriation identification number 09-3419;

(60) to purchase and install public safety equipment and information technology, including related equipment, furniture and infrastructure, in Bayard in Grant county, appropriation identification number 09-3420;

(61) to plan, design, construct and renovate structures at Fort Bayard in Grant county, appropriation identification number 09-3423;

(62) to plan, design and construct improvements and an addition to the municipal buildings in Hurley in Grant county, including planning, designing, constructing and renovating a building for the city hall, appropriation identification number 09-3425;

(63) to plan, design, construct, expand, equip and furnish improvements to the Memory Lane cemetery in Silver City in Grant county, appropriation identification number 09-3431;

(64) to purchase and equip a truck for the fire department in Anton Chico in Guadalupe county, appropriation identification number 09-3433;

(65) to plan, design and construct a courthouse complex in Mora county, appropriation identification number 09-3486;

(66) to purchase vehicles for use by an international-standards-organization-certified provider to transport persons with severe disabilities in Bernalillo, Valencia and Sandoval counties, appropriation identification number 09-3503;

(67) to plan, design, renovate and construct flood plain detention, retention and diversion structures in the Alamo, Dog, Nogal, Arrow, Lead, San Andres and Mule canyon areas of Otero county, appropriation identification number 09-3508;

(68) to design and construct gateways to entrances in Espanola in Rio Arriba county, appropriation identification number 09-3530;

(69) to furnish and equip the community center in Truchas in Rio Arriba county, appropriation identification number 09-3536;

(70) to purchase and equip a fire truck for the Velarde valley fire department in Rio Arriba county, appropriation identification number 09-3537;

~~[(71) to improve and expand the swimming pool and facilities in Portales in Roosevelt county, appropriation identification number 09-3540;] *LINE-ITEM VETO*~~

(72) to make improvements to the sewer system at the San Miguel county detention center, appropriation identification number 09-3560;

(73) to design and construct a jury box at the San Miguel county courthouse in Las Vegas in San Miguel county, appropriation identification number 09-3568;

(74) to design and construct a jury box at the San Miguel county courthouse in Las Vegas in San Miguel county, appropriation identification number 09-3569;

(75) to purchase a backhoe and equipment for Pecos in San Miguel county, appropriation identification number 09-3570;

(76) to purchase a backhoe and equipment in Pecos in San Miguel county, appropriation identification number 09-3571;

(77) to purchase farmland preservation easements in Corrales in Sandoval county, appropriation identification number 09-3582;

(78) for the expansion of the boys' and girls' club in Rio Rancho in Sandoval county, appropriation identification number 09-3589;

(79) to plan, design and construct a restoration and storage facility expansion for the New Mexico museum of military history, including purchasing, constructing and equipping displays and exhibits on military history, in Rio Rancho in Sandoval county, appropriation identification number 09-3590;

(80) to plan, design, purchase and construct a homeless shelter facility for use by Santa Fe and northern New Mexico in Santa Fe county, appropriation identification number 09-3600;

(81) to acquire land for, plan, design, construct, purchase, equip, furnish, install and make site and infrastructure improvements to the fairgrounds in Santa Fe county, appropriation identification number 09-3601;

(82) to plan, design, construct and improve juvenile and adult detention facilities, including purchasing, equipping, furnishing, installing and making site and infrastructure improvements, in Santa Fe county, appropriation identification number 09-3602;

(83) to equip and furnish a multipurpose center for use by an organization serving the developmentally disabled in Santa Fe county, appropriation identification number 09-3604;

(84) to acquire land for, plan, design, construct, equip, furnish, purchase, install and make infrastructure improvements to a public housing project in Santa Fe county, appropriation identification number 09-3606;

(85) to acquire land for, plan, design, construct, equip, furnish, purchase, install and make infrastructure improvements to a public housing project in Santa Fe county, appropriation identification number 09-3607;

(86) to plan, design, construct and equip improvements to public housing sites, including installing, furnishing, purchasing and making infrastructure improvements, in Santa Fe county, appropriation identification number 09-3608;

(87) to plan, design, construct, equip, furnish, purchase, install and make infrastructure improvements to the Vista Grande public library in Santa Fe county, appropriation identification number 09-3609;

(88) to plan, design and construct an animal shelter in Edgewood in Santa Fe county, appropriation identification number 09-3612;

(89) to acquire land for and plan, design, construct, purchase, equip, furnish, install and make site and infrastructure improvements for La Cienega community center and park, including installation of a modular building and construction of a facility, in Santa Fe county, appropriation identification number 09-3614;

(90) to acquire land for and plan, design, construct, purchase, equip, furnish, install and make site and infrastructure improvements to La Cienega community center and park in Santa Fe county, appropriation identification number 09-3616;

(91) to purchase land for and to plan, design, construct, equip and furnish a community center, including site improvements, infrastructure improvements and purchase and installation of a modular building, and improvements to La Cienega community park in Santa Fe county, appropriation identification number 09-3617;

(92) to purchase, plan, design, construct and install equipment for playground and picnic areas in La Puebla in Santa Fe county, appropriation identification number 09-3618;

(93) to acquire land for, plan, design, construct, purchase, equip, furnish and make site and infrastructure improvements to the tennis and basketball courts and a walking track for the Nambe public park and community center in Nambe in Santa Fe county, appropriation identification number 09-3620;

(94) to plan, design and construct housing and infrastructure using green building technologies for the Desert Sage project in Santa Fe in Santa Fe county, appropriation identification number 09-3637;

(95) to plan, design and construct the Latir volunteer fire station in Taos county, appropriation identification number 09-3664;

(96) to plan, design, construct, equip and furnish the Talpa community center, parking lot and playground in Taos county, appropriation identification number 09-3666;

(97) to plan, design and construct a facility and to purchase firefighting equipment for the Talpa, Ranchos de Taos and Pot Creek volunteer fire department in Taos county, appropriation identification number 09-3670;

(98) to purchase road equipment for Taos county, appropriation identification number 09-3672;

(99) to purchase and equip an animal control vehicle for the sheriff's department in Taos county, appropriation identification number 09-3673;

(100) to purchase and equip an animal control vehicle for the sheriff's department in Taos county, appropriation identification number 09-3674;

(101) to plan, design and construct improvements, including drainage and paving, to the veterans' cemetery in Taos county, appropriation identification number 09-3675;

(102) to purchase and install equipment for county-owned affordable housing in Taos county, appropriation identification number 09-3677;

(103) to plan, design and construct improvements to the fire station in Chamisal in Taos county, appropriation identification number 09-3679;

(104) to plan, design, construct, equip and furnish renovations to the community center in Penasco in Taos county, appropriation identification number 09-3681;

(105) to purchase and equip an ambulance in Questa in Taos county, appropriation identification number 09-3682;

(106) to purchase and equip an ambulance in Questa in Taos county, appropriation identification number 09-3683;

(107) to plan, design, construct and equip a renovation project in Red River in Taos county, appropriation identification number 09-3691;

(108) to plan, design and construct improvements to the Taos community center for the arts in Taos in Taos county, appropriation identification number

09-3692;

(109) to plan, design and reconstruct bathrooms, including purchase and installation of related equipment, for the Taos county parks and recreation department in Taos in Taos county, appropriation identification number 09-3694;

(110) to plan, design, construct, equip and furnish a park in the Manzano land grant in Torrance county, appropriation identification number 09-3697;

(111) to plan, design and construct the DWI memorial park, including acquisition of property for a parking area, in Moriarty in Torrance county, appropriation identification number 09-3699;

(112) to plan, design, construct, furnish, purchase and renovate a maintenance shop in Des Moines in Union county, appropriation identification number 09-3704;

(113) to plan, design, construct, renovate, equip and furnish improvements to the library in Bosque Farms in Valencia county, appropriation identification number

09-3708; and

(114) to purchase and equip police units in Bosque Farms in Valencia county, appropriation identification number 09-3709;

O. to the department of transportation:

(1) to plan, design and construct road improvements to Eubank boulevard from San Antonio drive to paseo del Norte in Albuquerque in Bernalillo county, appropriation identification number 09-3222;

(2) to plan, design and construct road improvements to Eubank boulevard from San Antonio drive to paseo del Norte in Albuquerque in Bernalillo county, appropriation identification number 09-3223;

(3) to purchase land for, plan, design and construct road and street improvements, including drainage ponds and channels, for the east mesa area in Dona Ana county, appropriation identification number 09-3359;

(4) for acquiring right of way, project development, design and construction on Vista Montana road in Dona Ana county, appropriation identification number 09-3364;

(5) to plan, design and construct curb and gutter improvements on Rasaaf circle in Mesilla in Dona Ana county, appropriation identification number 09-3388;

(6) to plan, design, survey and construct a curb and gutter project on Rasaaf circle in Mesilla in Dona Ana county, appropriation identification number 09-3389;

(7) to plan, design, acquire rights of way for and construct the Placitas road and sidewalk improvement project, including other road and sidewalk improvements, in Placitas in Dona Ana county, appropriation identification number 09-3390;

(8) for a lighted intersection and traffic signal at New Mexico highway 528 and Northern boulevard, including planning, designing, property and right-of-way acquisition, traffic signal work, subgrade preparation, paving and striping of the roadway, in Corrales and Rio Rancho in Sandoval county, appropriation identification number 09-3583; and

(9) for access from the intersection of New Mexico highway 528 and Northern boulevard to the Corrales boundary and to create a four-way signalized intersection, including property acquisition, traffic signal work, subgrade preparation, paving, striping of roadway, engineering and a lighted four-way signalized intersection, in Corrales in Sandoval county, appropriation identification number 09-3585;

P. to the higher education department, to purchase equipment for the Mora branch campus of Luna community college in Mora county, appropriation identification number 09-3496;

Q. to the board of regents of New Mexico state university:

(1) to furnish, equip, renovate and improve athletic facilities at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 09-3377;

(2) to equip, furnish and renovate athletic facilities at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 09-3378;

(3) to equip, furnish and renovate athletic facilities at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 09-3379;

(4) to purchase and install technology and equipment for training and facilities that support student athletes participating in university football sports

events at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 09-3382;

(5) to plan, design and construct improvements to the locker rooms at New Mexico state university in Las Cruces in Dona Ana county, appropriation identification number 09-3384;

(6) to plan, design, construct, equip and furnish the southwest center for rangeland sustainability, including the purchase and installation of information technology, in Lincoln and Torrance counties, appropriation identification number 09-3505;

(7) to plan, design, construct, equip and renovate a greenhouse at the Farmington branch campus agricultural science center of New Mexico state university in San Juan county, appropriation identification number 09-3542; and

(8) to plan, design, purchase and construct a building, including the purchase of land or property, for the Northeastern soil and water conservation district in Clayton in Union county, appropriation identification number 09-3703;

R. to the board of regents of the university of New Mexico, to purchase and install information technology and brain function assessment equipment, including related equipment, furniture and infrastructure, at the university of New Mexico in Albuquerque in Bernalillo county, appropriation identification number 09-3235; and

S. to the board of regents of western New Mexico university, to plan, design, purchase and install lighting for the tennis courts at western New Mexico university in Silver City in Grant county, appropriation identification number 09-3432.

Chapter 105 Section 6 Laws 2010

Section 6. CHANGE IN PURPOSE AND AUTHORIZATIONS FOR CERTAIN SEVERANCE TAX BOND PROCEEDS AUTHORIZED, APPROPRIATED OR REAUTHORIZED IN LAWS 2009.--Notwithstanding the requirements for reversion in Laws 2009, Chapter 128, [~~and except as provided in Section 21 of this act,~~] the unexpended or uncommitted balances remaining on the effective date of this act of severance tax bond proceeds authorized, appropriated or reauthorized in Laws 2009, Chapter 128 for the following described projects, as further identified by the department of finance and administration appropriation identification numbers and under the control of the following agencies, shall not be expended for their original purposes, but may be expended as provided in Sections 18 and 19 of this act or as specifically provided in any other act of the second session of the forty-ninth legislature; provided that, if severance tax bonds have not been issued for a project identified in this section or have been issued for less than the authorized amount, then the remaining authorization to issue bonds for the project is void: *LINE-ITEM VETO*

A. to the aging and long-term services department:

(1) to plan, design, construct, equip and furnish the senior center in the Chichiltah chapter of the Navajo Nation in McKinley county, appropriation identification number 09-3456; and

(2) to plan, design and construct improvements and equip senior centers countywide in Torrance county, appropriation identification number 09-3698;

B. to the capital program fund, for master planning, design and renovations to juvenile detention centers statewide and to furnish, equip and renovate the J. Paul Taylor juvenile detention center to implement Cambiar New Mexico in Las Cruces in Dona Ana county, appropriation identification number 09-3655;

C. to the children, youth and families department, to plan, design, construct, purchase and renovate

pre-kindergarten classrooms, including portables, statewide, appropriation identification number 09-3657;

D. to the public education department:

(1) to make improvements to the patio at Duranes elementary school in the Albuquerque public school district in Bernalillo county, appropriation identification number 09-3770;

(2) to plan, design, purchase and install improvements to the grounds at Tularosa high school in the Tularosa municipal school district in Otero county, appropriation identification number 09-3515;

(3) to purchase equipment for the academy for technology and the classics charter school in the Santa Fe public school district in Santa Fe county, appropriation identification number 09-3627;

(4) to purchase a vehicle for the school transportation bureau of the public education department in Santa Fe in Santa Fe county, appropriation identification number 09-3630; and

(5) to plan, design, construct, furnish, equip and restore La Cienega school daycare in the Questa independent school district in Taos county, appropriation identification number 09-3686;

E. to the energy, minerals and natural resources department, for bosque revitalization and trail development along the Rio Grande, appropriation identification number

09-3001;

F. to the department of environment:

(1) to plan, design and construct a solid waste transfer station, including landscaping and improving new and existing solid waste transfer convenience stations, in Carlsbad in Eddy county, appropriation identification number 09-3415;

(2) to plan, design, construct and equip water and wastewater system improvements in Espanola in Rio Arriba county, appropriation identification number 09-3532;

(3) to design, construct, purchase and install a solid waste baler at the county public works facility in San Miguel county, appropriation identification number 09-3563; and

(4) to repair and renovate the water tower in Clayton in Union county, appropriation identification number 09-3702;

~~G. to the department of finance and administration:~~

~~(1) for construction, renovation and improvements to media production, education and training facilities statewide, appropriation identification number~~

~~09-3007;~~

~~(2) to plan, design, construct and equip county fairgrounds and public rodeo facilities statewide, appropriation identification number 09-3119; and~~

~~(3) to provide grants to political subdivisions of the state for infrastructure improvements necessary to attract new companies or expand existing businesses to achieve job growth pursuant to the Local Economic Development Act statewide, appropriation identification number 09-3120;] LINE-ITEM VETO~~

H. to the Indian affairs department:

(1) to plan, design, construct, renovate, equip and furnish the Native American independent living center, including purchase of technology and a vehicle, at the Indian pueblo cultural center in Albuquerque in Bernalillo county, appropriation identification number

09-3225;

(2) to purchase land for and plan, design, construct, equip and renovate Native American independent living facilities for the Indian pueblo cultural center in Albuquerque in Bernalillo county, appropriation identification number 09-3226;

(3) to plan, design, renovate and equip the community and health clinic at the Pueblo of Cochiti in Sandoval county, appropriation identification number 09-3581;

(4) to plan, design and construct infrastructure at the Pueblo of San Ildefonso in Santa Fe county, appropriation identification number 09-3625;

(5) to plan, design, construct and equip a wellness center at the Pueblo of San Ildefonso in Santa Fe county, appropriation identification number 09-3626; and

(6) for home modifications for Native American independent living statewide, appropriation identification number 09-3653;

I. to the local government division of the department of finance and administration:

(1) to plan, design, construct, equip and furnish improvements to Los Duranes community center in the north valley of Albuquerque in Bernalillo county, appropriation identification number 09-3159;

(2) to plan, design, purchase, install, equip and furnish exhibits for the Anderson-Abruzzo international balloon museum in Albuquerque in Bernalillo county, appropriation identification number 09-3172;

~~[(3) to design, develop, construct, purchase and install exhibits, furniture, fixtures and equipment, to plan, design, construct, equip and furnish an addition and to purchase vans, trucks, shade structures and window coverings for the Explora science center and children's museum in Albuquerque in Bernalillo county, appropriation identification number 09-3178;~~

~~(4) to design, develop, construct, purchase and install exhibits, furniture, fixtures and equipment, to plan, design, construct, equip and furnish an addition and to purchase vans, trucks, shade structures and window coverings for the Explora science center and children's museum in Albuquerque in Bernalillo county, appropriation identification number 09-3184;] LINE-ITEM VETO~~

(5) to design, develop, construct, purchase and install exhibits, furniture, fixtures and equipment and to purchase vans, trucks, shade structures and window coverings for the Explora science center and children's museum, including planning, designing, constructing, equipping and furnishing an addition to the facility, in Albuquerque in Bernalillo county, appropriation identification number 09-3187;

(6) to design and construct improvements to Garfield park in the north valley of Albuquerque in Bernalillo county, appropriation identification number 09-3188;

~~[(7) to plan, design, construct and renovate the Hiland theater in Albuquerque in Bernalillo county, appropriation identification number 09-3190;] *LINE-ITEM VETO*~~

(8) to plan, design, construct, equip and furnish improvements to Los Duranes community center in the north valley of Albuquerque in Bernalillo county, appropriation identification number 09-3195;

(9) to make improvements to the barn, irrigation and water storage and to purchase farm equipment and vehicles for the Rio Grande community farm in Albuquerque in Bernalillo county, appropriation identification number

09-3210;

~~[(10) to plan, design, construct, purchase, install and equip a multipurpose facility for use by a youth development organization in Albuquerque in Bernalillo county, appropriation identification number 09-3217;] *LINE-ITEM VETO*~~

(11) for phase 2 improvements of the Lomas boulevard and Tramway boulevard linear park in Albuquerque in Bernalillo county, appropriation identification number

09-3228;

(12) to plan, design, construct, renovate, equip and furnish the police department building in Lake Arthur in Chaves county, appropriation identification number 09-3318;

(13) to plan, design, purchase, construct, furnish and equip a prefabricated building for a courthouse, including a parking lot, in Lake Arthur in Chaves county, appropriation identification number 09-3319;

(14) to plan, design, construct and equip improvements to parks in Grants in Cibola county, appropriation identification number 09-3339;

(15) to plan, design, construct and equip improvements to parks in Grants in Cibola county, appropriation identification number 09-3340;

(16) to plan, design and construct improvements to parks in Grants in Cibola county, appropriation identification number 09-3341;

(17) to purchase land for and to plan, design, construct, equip and furnish a multipurpose sports complex facility in Chamberino in Dona Ana county, appropriation identification number 09-3366;

(18) to purchase San Miguel elementary school in the Gadsden independent school district for a community center in San Miguel in Dona Ana county, appropriation identification number 09-3392;

(19) to acquire property, including land and buildings, and equip, construct and improve a multipurpose complex and center in San Miguel in Dona Ana county, appropriation identification number 09-3394;

(20) to plan, design and construct improvements and an addition to the municipal buildings, including planning, designing, constructing and renovating a building for the city hall, in Hurley in Grant county, appropriation identification number 09-3424;

~~[(21) to plan, design and construct a courthouse complex in Mora county, appropriation identification number 09-3481;]~~ *LINE-ITEM VETO*

(22) to repair, renovate and furnish county extension offices, a fair barn and rodeo grounds in Quay county, appropriation identification number 09-3520;

~~[(23) to plan, design, construct, remodel and replace the roof on the police station in Las Vegas in San Miguel county, appropriation identification number 09-3566;]~~ *LINE-ITEM VETO*

(24) to plan, design, construct, equip and remodel a records center for Corrales in Sandoval county, appropriation identification number 09-3586;

(25) to acquire land for, plan, design, construct, equip, furnish, purchase, install and make infrastructure improvements to a public housing project in Santa Fe county, appropriation identification number 09-3605;

(26) to acquire land for and plan, design, construct, purchase, equip, furnish, install and make site and infrastructure improvements for La Cienega community center and park in Santa Fe county, appropriation identification number 09-3613;

(27) to construct, equip and acquire land for La Cienega community park, including site improvements, and to plan, design, purchase, install, equip and furnish a modular building, including infrastructure improvements and planning, design and construction of a building, for La Cienega community center in Santa Fe county, appropriation identification number 09-3615;

~~[(28) to plan, design and construct improvements, including restoring the grandstand and retaining walls, to the Oscar Huber memorial ballpark in Madrid in Santa Fe county, appropriation identification number 09-3619;] *LINE-ITEM VETO*~~

(29) to acquire land for and plan, design, construct, purchase, equip, furnish, install and make site and infrastructure improvements to the tennis and basketball courts and a walking track for a Nambe public park and community center in Nambe in Santa Fe county, appropriation identification number 09-3621;

~~[(30) for construction, renovation and improvements to film and media production, education and training facilities statewide, appropriation identification number 09-3012; and~~

~~(31) for improvements to fair and arena rodeo facilities, appropriation identification number~~

~~09-3013;~~

~~J. to the property control division of the general services department, to plan, design, construct, renovate and equip a state multipurpose equestrian facility at the state fairgrounds in Bernalillo county, appropriation identification number 09-3010;] *LINE-ITEM VETO*~~

K. to the department of transportation:

(1) to plan, design and construct road improvements to Eubank boulevard from San Antonio drive to paseo del Norte in Albuquerque in Bernalillo county, appropriation identification number 09-3221;

(2) to conduct a southwest road loop study at the Pueblo of Laguna in Cibola county, appropriation identification number 09-3344;

(3) to plan, design, survey and construct, including curb, gutter and drainage, Rasaaf circle in Mesilla in Dona Ana county, appropriation identification number

09-3387; and

(4) to plan, design and construct road and drainage improvements and to purchase land for roads in Corrales in Sandoval county, appropriation identification number 09-3587;

L. to the higher education department, to purchase, install, equip and renovate the playground at the early childhood center at Luna community college in Las Vegas in San Miguel county, appropriation identification number

09-3567; [and

~~M. to the board of regents of the university of New Mexico, for a film and digital media center, including classrooms, studios, support space, a digital projection theater and faculty offices, at Mesa del Sol in Albuquerque in Bernalillo county, appropriation identification number 09-3145.] *LINE-ITEM VETO*~~

Chapter 105 Section 7 Laws 2010

Section 7. Laws 2005, Chapter 347, Section 1 is amended to read:

"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 Laws 2005, Chapter 347. 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 Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated for the purposes specified in Laws 2005, Chapter 347.

B. The agencies named in Laws 2005, Chapter 347 shall certify to the state board of finance when the money from the proceeds of the severance tax bonds authorized in this section is needed for the purposes specified in the applicable section of Laws 2005, Chapter 347. If an agency has not certified the need for the issuance of the bonds for a particular project, including projects that have been reauthorized, by the end of fiscal year 2007, the authorization for that project is void.

C. Before an agency may certify for the issuance of severance tax bonds, the project must be developed sufficiently so that the agency reasonably expects to:

(1) incur within six months after the applicable bonds have been issued 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 bonds have been issued.

D. Except as otherwise provided in Subsection E of this section or another section of Laws 2005, Chapter 347, the unexpended balance from the proceeds of severance tax bonds issued for a project, including projects that have been reauthorized, shall revert to the severance tax bonding fund as follows:

(1) for projects for which severance tax bonds were issued to match federal grants, six months after completion of the project;

(2) for projects for which severance tax bonds were issued to purchase vehicles, heavy equipment, 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 following the fiscal year in which the severance tax bonds were issued for the purchase;

(3) for projects for which severance tax bonds were issued to purchase emergency vehicles or other vehicles that require special equipment, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued for the purchase; and

(4) for all other projects for which severance tax bonds were issued, within six months of completion of the project, but no later than the end of fiscal year 2010.

E. Notwithstanding the reversion requirements of Subsection D of this section or another section of Laws 2005, Chapter 347, [~~and except as provided in Section 21 of this 2010 act,~~] the unexpended or uncommitted balance remaining on the effective date of this 2010 act from severance tax bond proceeds appropriated for a capital project in Laws 2005, Chapter 347, including a project that has been reauthorized in that act, shall not be expended for its original or reauthorized purpose, but may be expended as provided in Sections 18 and 19 of this 2010 act or as specifically provided in any other act of the second session of the forty-ninth legislature.
LINE-ITEM VETO

F. Except for appropriations to the capital program fund, money from severance tax bond proceeds provided pursuant to Laws 2005, Chapter 347 shall not be used to pay indirect project costs.

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 105 Section 8 Laws 2010

Section 8. Laws 2005, Chapter 347, Section 2 is amended to read:

"Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
LIMITATIONS--REVERSIONS.--

A. Except as otherwise provided in Subsection B of this section or another section of Laws 2005, Chapter 347, the unexpended balance of an appropriation made

in Laws 2005, Chapter 347 from the general fund or other state fund, including changes to prior appropriations, shall revert to the originating fund as follows:

(1) for projects for which appropriations were made to match federal grants, six months after completion of the project;

(2) for projects for which appropriations were made to purchase vehicles, heavy equipment, educational technology or equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year following the fiscal year in which the appropriation was made for the purchase;

(3) for projects for which appropriations were made to purchase emergency vehicles or other vehicles that require special equipment, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued for the purchase; and

(4) for all other projects for which appropriations were made, within six months of completion of the project, but no later than the end of fiscal year 2010.

B. Notwithstanding the reversion requirements of Subsection A of this section or another section of Laws 2005, Chapter 347, [~~and except as provided in Section 21 of this 2010 act,~~] the unexpended or uncommitted balance from an appropriation for a capital project in Laws 2005, Chapter 347 from the general fund or other state fund, including a change in that act to a prior appropriation, shall revert to the originating fund on the effective date of this 2010 act and, within thirty days of that effective date, shall be transferred to the originating fund by the department of finance and administration. *LINE-ITEM VETO*

C. Except for appropriations to the capital program fund, money from appropriations made in Laws 2005, Chapter 347 shall not be used to pay indirect project costs.

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 105 Section 9 Laws 2010

Section 9. Laws 2006, Chapter 107, Section 1 is amended to read:

"Section 1. SEVERANCE TAX BONDS--REVERSION OF UNEXPENDED PROCEEDS.--

A. Except as otherwise provided in Subsection B of this section or another section of Laws 2006, Chapter 107, the unexpended balance from the proceeds of

severance tax bonds issued for a project that has been reauthorized in Laws 2006, Chapter 107 shall revert to the severance tax bonding fund as follows:

(1) for projects for which severance tax bonds were issued to match federal grants, six months after completion of the project;

(2) for projects for which severance tax bonds were issued to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; 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 bonds were issued for the purchase; and

(3) for all other projects for which severance tax bonds were issued, within six months of completion of the project, but no later than the end of fiscal year 2010.

B. Notwithstanding the reversion requirements of Subsection A of this section or another section of Laws 2006, Chapter 107, [~~and except as provided in Section 21 of this 2010 act,~~] the unexpended or uncommitted balance remaining on the effective date of this 2010 act, from severance tax bond proceeds appropriated for a capital project that has been reauthorized in Laws 2006, Chapter 107, shall not be expended for its original or reauthorized purpose, but may be expended as provided in Sections 18 and 19 of this 2010 act or as specifically provided in any other act of the second session of the forty-ninth legislature. *LINE-ITEM VETO*

C. 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 105 Section 10 Laws 2010

Section 10. Laws 2006, Chapter 111, Section 1 is amended to read:

"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 Laws 2006, Chapter 111. 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 Internal Revenue Code of

1986, as amended. Proceeds from the sale of the bonds are appropriated for the purposes specified in Laws 2006, Chapter 111.

B. The agencies named in Laws 2006, Chapter 111 shall certify to the state board of finance when the money from the proceeds of the severance tax bonds authorized in this section is needed for the purposes specified in the applicable section of Laws 2006, Chapter 111. If an agency has not certified the need for the issuance of the bonds for a particular project, including projects that have been reauthorized, by the end of fiscal year 2008, the authorization for that project is void.

C. Before an agency may certify for the issuance of severance tax bonds, the project must be developed sufficiently so that the agency reasonably expects to:

(1) incur within six months after the applicable bonds have been issued 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 bonds have been issued.

D. Except as otherwise provided in Subsection E of this section or another section of Laws 2006, Chapter 111, the unexpended balance from the proceeds of severance tax bonds issued for a project, including projects that have been reauthorized, shall revert to the severance tax bonding fund as follows:

(1) for projects for which severance tax bonds were issued to match federal grants, six months after completion of the project;

(2) for projects for which severance tax bonds were issued to purchase vehicles, emergency vehicles or other vehicles that require special equipment, heavy equipment, 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 bonds were issued for the purchase; and

(3) for all other projects for which severance tax bonds were issued, within six months of completion of the project, but no later than the end of fiscal year 2010.

E. Notwithstanding the reversion requirements of Subsection D of this section or another section of Laws 2006, Chapter 111, [~~and except as provided in Section 21 of this 2010 act,~~] the unexpended or uncommitted balance remaining on the effective date of this 2010 act from severance tax bond proceeds appropriated for a capital project in Laws 2006, Chapter 111, including a project that has been reauthorized in that act, shall not be expended for its original or reauthorized purpose, but may be expended as provided in Sections 18 and 19 of this 2010 act or as

specifically provided in any other act of the second session of the forty-ninth legislature.
LINE-ITEM VETO

F. Except for appropriations to the capital program fund, money from severance tax bond proceeds provided pursuant to Laws 2006, Chapter 111 shall not be used to pay indirect project costs.

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 105 Section 11 Laws 2010

Section 11. Laws 2006, Chapter 111, Section 2 is amended to read:

"Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
LIMITATIONS--REVERSIONS.--

A. Except as otherwise provided in Subsection B of this section or another section of Laws 2006, Chapter 111, the unexpended balance of an appropriation made in Laws 2006, Chapter 111 from the general fund or other state fund, including changes to prior appropriations, shall revert to the originating fund as follows:

(1) for projects for which appropriations were made to match federal grants, six months after completion of the project;

(2) for projects for which appropriations were made to purchase vehicles, emergency vehicles or other vehicles that require special equipment, heavy equipment, educational technology or 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

(3) for all other projects for which appropriations were made, within six months of completion of the project, but no later than the end of fiscal year 2010.

B. Notwithstanding the reversion requirements of Subsection A of this section or another section of Laws 2006, Chapter 111, [~~and except as provided in Section 21 of this 2010 act,~~] the unexpended or uncommitted balance from an appropriation for a capital project in Laws 2006, Chapter 111 from the general fund or other state fund, including a change in that act to a prior appropriation, shall revert to the originating fund on the effective date of this 2010 act and, within thirty days of that effective date, shall be transferred to the originating fund by the department of finance and administration. *LINE-ITEM VETO*

C. Upon certification by an agency that money from the general fund is needed for a purpose specified in Laws 2006, Chapter 111, the secretary of finance and

administration shall disburse such amount of the appropriation for that project as is necessary to meet that need.

D. Except for appropriations to the capital program fund, money from appropriations made in Laws 2006, Chapter 111 shall not be used to pay indirect project costs.

E. 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 105 Section 12 Laws 2010

Section 12. TRANSFER OF CERTAIN UNEXPENDED BALANCES TO THE SEVERANCE TAX BONDING FUND.--On the effective date of this act, all unexpended balances of appropriations or reauthorizations of severance tax bond proceeds in Laws 2004, Chapter 126; Laws 2005, Chapter 347; Laws 2006, Chapters 107 and 111; Laws 2007, Chapters 2, 42, 334 and 341; Laws 2008, Chapters 83 and 92; and Laws 2009, Chapter 128 that were to have reverted to the severance tax bonding fund pursuant to applicable law, but which reversions have not occurred, shall be transferred by the department of finance and administration to the severance tax bonding fund as required by law.

Chapter 105 Section 13 Laws 2010

Section 13. TRANSFER OF CERTAIN UNEXPENDED BALANCES TO THE GENERAL FUND OR OTHER STATE FUND.--On the effective date of this act, all unexpended balances of appropriations from the general fund or other state fund, including changes to prior appropriations, in Laws 2004, Chapter 126; Laws 2005, Chapter 347; Laws 2006, Chapters 107 and 111; Laws 2007, Chapters 2, 42, 334 and 341; Laws 2008, Chapters 83 and 92; and Laws 2009, Chapter 128 for capital projects that were to have reverted to the originating fund or the tribal infrastructure project fund pursuant to applicable law, but which reversions have not occurred, shall be transferred by the department of finance and administration to the general fund, other originating fund or the tribal infrastructure project fund as required by law.

Chapter 105 Section 14 Laws 2010

Section 14. REAUTHORIZATION OF SMALL BALANCES OF SEVERANCE TAX BOND PROCEEDS.--Notwithstanding the provisions of any other law, ~~[and except as provided in Section 21 of this act,]~~ if the total unexpended or uncommitted balance remaining on the effective date of this act of an appropriation or reauthorization of severance tax bond proceeds in Laws 2004, Chapter 126; Laws 2005, Chapter 347; Laws 2006, Chapter 107 or 111; Laws 2007, Chapter 2, 42, 334 or 341; or Laws 2008, Chapter 83 or 92 for a capital project is less than ten thousand dollars (\$10,000), that unexpended or uncommitted balance shall not be expended for its original or

reauthorized purpose, but may be expended as provided in Sections 18 and 19 of this act or as specifically provided in any other act of the second session of the forty-ninth legislature. *LINE-ITEM VETO*

Chapter 105 Section 15 Laws 2010

Section 15. REVERSION OF SMALL BALANCES TO THE GENERAL FUND OR OTHER STATE FUND.--Notwithstanding the reversion requirements of any other law, ~~[and except as provided in Section 21 of this act,]~~ if the total unexpended or uncommitted balance of an appropriation from the general fund or other state fund, including a change to a prior appropriation, in Laws 2004, Chapter 126; Laws 2005, Chapter 347; Laws 2006, Chapter 107 or 111; Laws 2007, Chapter 2, 42, 334 or 341; or Laws 2008, Chapter 83 or 92 for a capital project is less than ten thousand dollars (\$10,000), that unexpended or uncommitted balance shall revert to the general fund or other originating fund on the effective date of this act, and, within thirty days of that effective date, the department of finance and administration shall transfer the unexpended balances to the general fund or other originating fund as applicable. *LINE-ITEM VETO*

Chapter 105 Section 16 Laws 2010

Section 16. CERTAIN ROAD PROJECTS--GENERAL FUND BALANCES REVERTED.--The unexpended balances, up to the amount specified, of the following appropriations from the general fund shall not be expended but shall revert to the general fund on the effective date of this act:

A. eight million five hundred thousand dollars (\$8,500,000) of the unexpended balance of the appropriation to the department of transportation in Subsection A of Section 3 of Chapter 3 of Laws 2007 (1st S.S.), appropriation identification number 07-6605; and

B. nine million seven hundred thousand dollars (\$9,700,000) of the unexpended balance of the appropriation to the local government transportation fund in Subsection B of Section 3 of Chapter 3 of Laws 2007 (1st S.S.), appropriation identification number 07-6606.

Chapter 105 Section 17 Laws 2010

Section 17. CERTAIN ROAD PROJECTS--UNEXPENDED SEVERANCE TAX BOND PROCEEDS--REAUTHORIZATION.--The unexpended balance, up to six million three hundred thousand dollars (\$6,300,000), of the severance tax bonds issued pursuant to Subsection A of Section 1 of Chapter 3 of Laws 2007 (1st S.S.) and appropriated to the local government transportation fund in Paragraphs (1) and (3) of Subsection C of that section shall not be expended for its original purpose, but may be expended as provided in Sections 18 and 19 of this act or as specifically provided in any other act of the second session of the forty-ninth legislature.

Chapter 105 Section 18 Laws 2010

Section 18. REAUTHORIZED SEVERANCE TAX BOND PROCEEDS--CAPITAL PROJECTS.--

A. Subject to the provisions of Section 19 of this act, the unexpended or uncommitted balance of severance tax bond proceeds reauthorized in this act may be expended in the following amounts by the following agencies for the following purposes:

(1) to the department of transportation:

(a) eight million five hundred thousand dollars (\$8,500,000) for the purpose of completing those projects authorized in Paragraphs (1) and (3) through (38) of Subsection A of Section 27 of Chapter 3 of Laws 2003 (1st S.S.); provided that the department shall comply with the requirements of Subsections C, D and E of Section 67-3-59.4 NMSA 1978; and

(b) one hundred thirty-five thousand dollars (\$135,000) to purchase land for, plan, design and construct road and street improvements, including drainage ponds and channels, for the east mesa area in Dona Ana county;

(2) to the local government transportation fund, seven million two hundred thousand dollars (\$7,200,000) for distribution as directed by the department of transportation for projects pursuant to Section 6-21-6.12 NMSA 1978;

(3) to the aging and long-term services

department:

(a) two hundred ninety-seven thousand dollars (\$297,000) to construct and equip a senior center in the Beclabito chapter of the Navajo Nation in San Juan county; and

(b) five hundred thirty-three thousand three hundred thirty-eight dollars (\$533,338) to purchase and equip vehicles for senior centers citywide in Albuquerque in Bernalillo county;

(4) to the capital program fund, nine hundred eighty-five thousand dollars (\$985,000) for security upgrades and the purchase and installation of electronic monitoring equipment at state-owned corrections facilities statewide, including the facility in Springer in Colfax county;

(5) to the state parks division of the energy, minerals and natural resources department, two hundred ninety-one thousand nine hundred one dollars (\$291,901) for park improvements statewide;

(6) to the department of environment:

(a) seven hundred twenty-eight thousand six hundred sixty-one dollars (\$728,661) to acquire property for, plan, design and construct a wastewater pre-treatment plant and wastewater infrastructure in Clovis in Curry county;

(b) five hundred forty-two thousand five hundred sixty-seven dollars (\$542,567) to plan, design and construct a water system, including replacement of water lines, in Questa in Taos county; and

(c) two hundred fifty-eight thousand six hundred fifteen dollars (\$258,615) to plan, design and construct improvements to the water and wastewater system in Moriarty in Torrance county;

(7) to the Indian affairs department:

(a) two hundred fifty-seven thousand one hundred dollars (\$257,100) to plan, design and construct a water line in the White Horse Lake chapter of the Navajo Nation in McKinley county;

(b) ninety-seven thousand five hundred sixty-five dollars (\$97,565) to plan, design and construct a wellness center in Crownpoint in McKinley county; and

(c) six hundred thousand dollars (\$600,000) to make site improvements and to construct, equip and furnish the home for women and children in Shiprock in San Juan county;

(8) to the local government division of the department of finance and administration:

(a) two million four hundred five thousand two hundred ninety-one dollars (\$2,405,291) to plan, design, construct and equip a multipurpose family services center in the south valley in Bernalillo county;

(b) two hundred thirty-eight thousand nine hundred five dollars (\$238,905) to plan, design, construct and equip an addition to the San Juan county archaeological research center and library in Salmon ruins in San Juan county; and

(c) two hundred forty-seven thousand five hundred dollars (\$247,500) to acquire land for, plan, design and construct a municipal complex in Sunland Park in Dona Ana county;

(9) to the department of finance and administration, two hundred thousand dollars (\$200,000) to provide technical assistance and to plan, design and construct acequias statewide;

(10) to the interstate stream commission:

(a) forty thousand dollars (\$40,000) to plan, design and construct improvements to a reservoir in the Seboyeta community irrigation system acequia in Cibola county;

(b) ten thousand dollars (\$10,000) to plan, design and construct improvements, including a river crossing, lining, diversion and outlet, for the acequia de Rainsville norte in Mora county;

(c) ten thousand dollars (\$10,000) to plan, design and construct a pipeline at la acequia del Alto Sur de Mora in Cleveland in Mora county;

(d) twenty thousand dollars (\$20,000) to plan, design and construct improvements to the acequia de los Espinosas in Chimayo in Rio Arriba and Taos counties;

(e) ten thousand dollars (\$10,000) to plan, design and construct a waterbanking and conservation program for acequias in the lower Rio Chama valley, including planning, designing and mapping, for the Rio Chama acequia association in Rio Arriba county;

(f) twenty-five thousand dollars (\$25,000) to make improvements to the acequia de Los Ranchos in Chimayo in Santa Fe and Rio Arriba counties;

(g) eleven thousand dollars (\$11,000) to plan, design, construct and repair the Jackson ditch acequia in San Juan county;

(h) ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de Molino in San Miguel county;

(i) twenty-five thousand dollars (\$25,000) to purchase, install and construct improvements and repairs to the acequias Nueva, Llano and Comunidad in Nambe in Santa Fe county;

(j) one hundred thousand dollars (\$100,000) to plan, design and construct acequia improvements, including improvements to diversion dams and water conveyance infrastructure, for the south Upper acequia, east Sandoval acequia and west Sandoval acequia in the Jemez river basin in Jemez Springs in Sandoval county;

(k) one hundred sixteen thousand dollars (\$116,000) to plan, design and construct a diversion dam on the south Upper acequia in Jemez Springs in Sandoval county;

(l) seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including improvements to ditch banks, side slopes, turnouts, checks and structures, to community acequias in the south valley of Bernalillo county;

(m) thirty-eight thousand dollars (\$38,000) to plan, design and construct improvements to El Ancon acequia in San Miguel county;

(n) fifty thousand dollars (\$50,000) to plan, design and construct improvements, including gates and a diversion system, for the San Miguel community ditch and acequia in Ribera in San Miguel county;

(o) ten thousand dollars (\$10,000) to plan, design and repair the Cuchilla ditch in Des Montes in Taos county; and

(p) thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to El Ancon acequia in San Miguel county; and

(11) to the board of regents of New Mexico state university, two hundred eighty-nine thousand two hundred eighty-six dollars (\$289,286) to plan, design, construct, equip and furnish the southwest center for rangeland sustainability, including the purchase and installation of information technology, in Lincoln and Torrance counties.

B. The unexpended balance of appropriations for projects in Subsection A of this section shall revert to the severance tax bonding fund at the end of fiscal year 2014 or upon completion of the project, whichever is sooner.

Chapter 105 Section 19 Laws 2010

Section 19. STATE BOARD OF FINANCE--ALLOCATION OF SEVERANCE TAX BOND PROCEEDS.--

A. The state board of finance shall determine which unexpended or uncommitted balances of severance tax bond proceeds reauthorized in this act or any other act of the second session of the forty-ninth legislature shall be allocated to which projects specified in Section 18 of this act or specified in any other act of the second session of the forty-ninth legislature that authorizes an expenditure of the proceeds.

B. If the total amount of unexpended or uncommitted balances of severance tax bond proceeds reauthorized by acts of the second session of the forty-ninth legislature exceeds the total amount of the proceeds allocated to projects specified by acts enacted during that session, the unallocated balance may be applied by the state board of finance to projects for which severance tax bonds have been authorized but not issued.

Chapter 105 Section 20 Laws 2010

Section 20. SHORT-TERM SEVERANCE TAX BONDS ISSUED IN FISCAL YEAR 2010 TO RESTORE GENERAL FUND ALLOTMENTS.--

A. In fiscal year 2010, when the secretary of finance and administration certifies the need for the bonds, the state board of finance may issue and sell severance tax bonds with a term that does not extend beyond the end of fiscal year 2010 in an aggregate amount not to exceed seventeen million seven hundred thousand dollars (\$17,700,000) for the purposes stated in this section.

B. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended.

C. Proceeds from the sale of the bonds are appropriated to the general fund. The board of finance division of the department of finance and administration shall transfer the proceeds to the general fund for use by the department of finance and administration in fiscal year 2010 to restore the allotments made from the general fund for capital project general fund appropriations that were enacted in prior sessions of the legislature and that had an expenditure period ending on or after June 30, 2010.

Chapter 105 Section 21 Laws 2010

~~[Section 21. APPLICATION--EXEMPTIONS.--~~

~~A. The provisions of Sections 1 through 6 and 14 and 15 of this act do not apply to an appropriation for a project, even if specifically mentioned in those sections, if:~~

~~(1) the appropriation is to a statutorily nonreverting fund;~~

~~(2) within thirty days of the effective date of this act, the secretary of finance and administration determines that:~~

~~(a) the project owner has submitted documents showing that, pursuant to the Procurement Code, there were binding, written obligations or purchase orders in place on or before October 30, 2009 that were sufficient to complete the project; and~~

~~(b) the project will be completed before the scheduled reversion date; or~~

~~(3) within thirty days of the effective date of this act, the secretary of finance and administration determines that:~~

~~(a) there are committed matching federal, local or other state funds or capital, including funds available through the New Mexico finance authority or the New Mexico mortgage finance authority, that, when combined with the appropriation, are sufficient to fully fund the project;~~

~~(b) the project owner has submitted documents showing that the matching funds or capital were committed to the project on or before October 30, 2009;~~

~~(c) all or part of the matching funds or capital will be lost and the project not completed if the appropriation is subjected to the provisions of those sections; and~~

~~(d) the project will be completed before the scheduled reversion date.~~

~~B. The provisions of Subsection E of Section 1 of Chapter 347 of Laws 2005, Subsection B of Section 2 of Chapter 347 of Laws 2005, Subsection B of Section 1 of Chapter 107 of Laws 2006, Subsection E of Section 1 of Chapter 111 of Laws 2006 and Subsection B of Section 2 of Chapter 111 of Laws 2006, as those sections are amended in this act, do not apply to an appropriation:~~

~~(1) that meets the criteria of Paragraph (1), (2) or (3) of Subsection A of this section; or~~

~~(2) for which the statutory reversion date is after June 30, 2010.]~~
LINE-ITEM VETO

Chapter 105 Section 22 Laws 2010

Section 22. DEFINITIONS.--As used in this act:

A. "uncommitted balance" means the remainder of an appropriation after reserving for costs and expenses not yet incurred but that will be incurred prior to the reversion date for the appropriation, under binding written obligations to third parties to purchase property or services, which binding written obligations were entered into prior to the effective date of this 2010 act; and

B. "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

Chapter 105 Section 23 Laws 2010

Section 23. SEVERABILITY.--If, in this act, a specific reversion, a voided authorization, a change in the use of severance tax bond proceeds or an authorization

to expend severance tax bond proceeds is held invalid or otherwise cannot be effectuated, the remainder of the act and any other reversion, voided authorization, change in the use of severance tax bond proceeds or authorization to expend severance tax bond proceeds shall not be affected.

SFC/Senate Bill 182, aa, w/o ec, partial veto

Approved March 10, 2010

LAWS 2010, CHAPTER 106

AN ACT

RELATING TO FIREARMS; ALLOWING CONCEALED HANDGUNS IN A RESTAURANT THAT SELLS BEER AND WINE AND DERIVES NO LESS THAN SIXTY PERCENT OF ITS ANNUAL GROSS RECEIPTS FROM THE SALE OF FOOD FOR CONSUMPTION ON THE PREMISES; AMENDING A SECTION OF THE CRIMINAL CODE.

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

Chapter 106 Section 1 Laws 2010

Section 1. Section 30-7-3 NMSA 1978 (being Laws 1975, Chapter 149, Section 1, as amended) is amended to read:

"30-7-3. UNLAWFUL CARRYING OF A FIREARM IN LICENSED LIQUOR ESTABLISHMENTS.--

A. Unlawful carrying of a firearm in an establishment licensed to dispense alcoholic beverages consists of carrying a loaded or unloaded firearm on any premises licensed by the regulation and licensing department for the dispensing of alcoholic beverages except:

(1) by a law enforcement officer in the lawful discharge of the officer's duties;

(2) by a law enforcement officer who is certified pursuant to the Law Enforcement Training Act acting in accordance with the policies of the officer's law enforcement agency;

(3) by the owner, lessee, tenant or operator of the licensed premises or the owner's, lessee's, tenant's or operator's agents, including privately employed security personnel during the performance of their duties;

(4) by a person carrying a concealed handgun who is in possession of a valid concealed handgun license for that gun pursuant to the Concealed Handgun Carry Act on the premises of:

(a) a licensed establishment that does not sell alcoholic beverages for consumption on the premises; or

(b) a restaurant licensed to sell only beer and wine that derives no less than sixty percent of its annual gross receipts from the sale of food for consumption on the premises, unless the restaurant has a sign posted, in a conspicuous location at each public entrance, prohibiting the carrying of firearms, or the person is verbally instructed by the owner or manager that the carrying of a firearm is not permitted in the restaurant;

(5) by a person in that area of the licensed premises usually and primarily rented on a daily or short-term basis for sleeping or residential occupancy, including hotel or motel rooms;

(6) by a person on that area of a licensed premises primarily used for vehicular traffic or parking; or

(7) for the purpose of temporary display, provided that the firearm is:

(a) made completely inoperative before it is carried onto the licensed premises and remains inoperative while it is on the licensed premises; and

(b) under the control of the licensee or an agent of the licensee while the firearm is on the licensed premises.

B. Whoever commits unlawful carrying of a firearm in an establishment licensed to dispense alcoholic beverages is guilty of a fourth degree felony."

Chapter 106 Section 2 Laws 2010

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 40

Approved March 10, 2010

LAWS 2010, CHAPTER 107

AN ACT

RELATING TO SCHOOL PERSONNEL; ADDING THE USE OF CERTAIN PROFESSIONAL DEVELOPMENT FOR TEACHERS.

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

Chapter 107 Section 1 Laws 2010

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

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

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

B. The local superintendent shall adopt policies, guidelines and procedures for the performance evaluation process. Evaluation by other school employees shall be one component of the evaluation tool for school administrators.

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

D. At the beginning of each school year, teachers and school principals shall devise professional development plans for the coming year, and performance evaluations shall be based in part on how well the professional development plan was carried out.

E. If a level two or three-A teacher's performance evaluation indicates less than satisfactory performance and competency, the school principal may require the teacher to undergo peer intervention, including mentoring, for a period the school principal deems necessary. If the teacher is unable to demonstrate satisfactory performance and competency by the end of the period, the peer interveners may recommend termination of the teacher.

F. At least every two years, school principals shall attend a training program approved by the department to improve their evaluation, administrative and instructional leadership skills."

Senate Bill 111, aa

Approved March 10, 2010

LAWS 2010, CHAPTER 108

AN ACT

RELATING TO EDUCATION; ENACTING THE HISPANIC EDUCATION ACT;
CREATING THE HISPANIC EDUCATION LIAISON OF THE PUBLIC EDUCATION
DEPARTMENT; PROVIDING POWERS AND DUTIES.

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

Chapter 108 Section 1 Laws 2010

Section 1. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Hispanic Education Act"."

Chapter 108 Section 2 Laws 2010

Section 2. A new section of the Public School Code is enacted to read:

"PURPOSE.--The purpose of the Hispanic Education Act is to:

A. provide for the study, development and implementation of educational systems that affect the educational success of Hispanic students to close the achievement gap and increase graduation rates;

B. encourage and foster parental involvement in the education of their children; and

C. provide mechanisms for parents, community and business organizations, public schools, school districts, charter schools, public post-secondary educational institutions, the department and state and local policymakers to work together to improve educational opportunities for Hispanic students for the purpose of closing the achievement gap, increasing graduation rates and increasing post-secondary enrollment, retention and completion."

Chapter 108 Section 3 Laws 2010

Section 3. A new section of the Public School Code is enacted to read:

"DEFINITION.--As used in the Hispanic Education Act, "liaison" means the Hispanic education liaison."

Chapter 108 Section 4 Laws 2010

Section 4. A new section of the Public School Code is enacted to read:

"HISPANIC EDUCATION LIAISON--CREATED--DUTIES.--

A. The "Hispanic education liaison" is created in the department.

B. The liaison shall:

(1) focus on issues related and implementations to Hispanic education and advise the secretary on the development and implementation of policy regarding the education of Hispanic students;

(2) advise the department and the commission on the development and implementation of the five-year strategic plan for public elementary and secondary education in the state as the plan relates to Hispanic student education;

(3) assist and be assisted by other staff in the department to improve elementary, secondary and post-secondary educational outcomes for Hispanic students;

(4) serve as a resource to enable school districts and charter schools to provide equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Hispanic students enrolled in public schools;

(5) support and consult with the Hispanic education advisory council; and

(6) support school districts and charter schools to recruit parents on site-based and school district committees that represent the ethnic diversity of the community."

Chapter 108 Section 5 Laws 2010

Section 5. A new section of the Public School Code is enacted to read:

"HISPANIC EDUCATION ADVISORY COUNCIL.--

A. The "Hispanic education advisory council" is created as an advisory council to the secretary. The council shall advise the secretary on matters related to improving public school education for Hispanic students, increasing parent involvement

and community engagement in the education of Hispanic students and increasing the number of Hispanic high school graduates who succeed in post-secondary academic, professional or vocational education.

B. The secretary shall appoint no more than twenty-three members to the council who are knowledgeable about and interested in the education of Hispanic students, including representatives of public schools; post-secondary education and teacher preparation programs; parents; Hispanic cultural, community and business organizations; other community and business organizations; and other interested persons. The secretary shall give due regard to geographic representation. Members shall serve at the pleasure of the secretary.

C. The council shall elect a chairperson and such other officers as it deems necessary.

D. The council shall meet as necessary, but at least twice each year.

E. The council shall advise the secretary on matters related to Hispanic education in New Mexico.

F. Members of the council shall not receive per diem and mileage or other compensation for their services."

Chapter 108 Section 6 Laws 2010

Section 6. A new section of the Public School Code is enacted to read:

"STATEWIDE STATUS REPORT.--

A. The department, in collaboration with the higher education department, shall submit an annual preschool through post-secondary statewide Hispanic education status report no later than November 15 to the governor and the legislature through the legislative education study committee. A copy shall be provided to the legislative library in the legislative council service.

B. The status report shall include the following information, by school district, by charter school and statewide, which may be compiled from data otherwise required to be submitted to the department:

- (1) Hispanic student achievement at all grades;
- (2) attendance for all grades;
- (3) the graduation rates for Hispanic students;

(4) the number of Hispanic students in schools that make adequate yearly progress and in schools at each level of school improvement or restructuring; and

(5) the number and type of bilingual and multicultural programs in each school district and charter school.

C. The status report shall include the following information, by post-secondary educational institution, which may be compiled from data otherwise required to be submitted to the higher education department:

(1) Hispanic student enrollment;

(2) Hispanic student retention; and

(3) Hispanic student completion rates."

Chapter 108 Section 7 Laws 2010

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

Senate Bill 132, aa

Approved March 10, 2010

LAWS 2010, CHAPTER 109

AN ACT

RELATING TO LEGISLATIVE LOTTERY SCHOLARSHIPS; CHANGING ELIGIBILITY FOR MILITARY VETERANS TO RECEIVE A LEGISLATIVE LOTTERY SCHOLARSHIP; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

Chapter 109 Section 1 Laws 2010

Section 1. Section 21-1-4.3 NMSA 1978 (being Laws 1996, Chapter 71, Section 3, as amended by Laws 2007, Chapter 72, Section 7 and by Laws 2007, Chapter 73, Section 1) is amended to read:

"21-1-4.3. LEGISLATIVE LOTTERY SCHOLARSHIPS AUTHORIZED--CERTAIN EDUCATIONAL INSTITUTIONS.--

A. To the extent that funds are made available by the legislature from the lottery tuition fund, the boards of regents of New Mexico state university, New Mexico institute of mining and technology, eastern New Mexico university, western New Mexico university, the university of New Mexico, New Mexico highlands university and northern New Mexico college shall award legislative lottery scholarships for tuition for qualified resident students attending their respective institutions and branches of those institutions.

B. Except as otherwise authorized in this section, the legislative lottery scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend one of the state educational institutions set forth in this section or one of the branches of those institutions. Each legislative lottery scholarship shall be awarded for up to four consecutive years beginning the second semester of the recipient's first year of enrollment if the recipient has maintained residency in New Mexico and maintained a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment.

C. The legislative lottery scholarships authorized in this section shall also apply to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, attend a two-year public post-secondary educational institution in New Mexico and who, upon the completion of that curriculum or at the end of two years, whichever is sooner, transfer to one of the post-secondary state educational institutions set forth in this section. Those students shall be eligible for a legislative lottery scholarship for two consecutive years if they maintain residency in New Mexico, maintain a grade point average of 2.5 or higher on a 4.0 scale and attend the institution full time during the regular academic year.

D. The legislative lottery scholarships authorized in this section shall also apply to full-time resident students who:

(1) within one hundred twenty days of completion of a high school curriculum at a public or accredited private New Mexico high school, or of receiving a graduate equivalent diploma, begin service in the United States armed forces; and

(2) within one year of completion of honorable service or medical discharge from the service attend one of the state educational institutions set forth in this section.

E. The higher education department shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the

legislative lottery scholarship program. Guidelines shall be distributed to the board of regents of each institution to enable a uniform availability of the resident student legislative lottery scholarships.

F. For purposes of the legislative lottery scholarship program as it applies to students with disabilities who may require special accommodations, the higher education department, in consultation with the student and the office at the institution that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester and in no case shall eligibility extend beyond fourteen consecutive semesters."

Senate Bill 134

Approved March 10, 2010

LAWS 2010, CHAPTER 110

AN ACT

RELATING TO PUBLIC SCHOOLS; CHANGING GRADUATION REQUIREMENTS FOR STUDENTS ENTERING NINTH GRADE IN THE 2012-2013 SCHOOL YEAR TO INCLUDE HEALTH EDUCATION; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009.

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

Chapter 110 Section 1 Laws 2010

Section 1. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended by Laws 2009, Chapter 256, Section 1 and by Laws 2009, Chapter 267, Section 2 and also by Laws 2009, Chapter 268, Section 1) is amended to read:

"22-13-1.1. GRADUATION REQUIREMENTS.--

A. At the end of grades eight through eleven, each student shall prepare an interim next-step plan that sets forth the coursework for the grades remaining until high school graduation. Each year's plan shall explain any differences from previous interim next-step plans, shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

B. Each student must complete a final next-step plan during the senior year and prior to graduation. The plan shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

C. An individualized education program that meets the requirements of Subsections A and B of this section and that meets all applicable transition and procedural requirements of the federal Individuals with Disabilities Education Act for a student with a disability shall satisfy the next-step plan requirements of this section for that student.

D. A local school board shall ensure that each high school student has the opportunity to develop a next-step plan based on reports of college and workplace readiness assessments, as available, and other factors and is reasonably informed about:

(1) curricular and course options, including honors or advanced placement courses, dual-credit courses, distance learning courses, career clusters, pre-apprenticeship programs or remediation programs that the college and workplace readiness assessments indicate to be appropriate;

(2) opportunities available that lead to different post-high-school options; and

(3) alternative opportunities available if the student does not finish a planned curriculum.

E. The secretary shall:

(1) establish specific accountability standards for administrators, counselors, teachers and school district staff to ensure that every student has the opportunity to develop a next-step plan;

(2) promulgate rules for accredited private schools in order to ensure substantial compliance with the provisions of this section;

(3) monitor compliance with the requirements of this section; and

(4) compile such information as is necessary to evaluate the success of next-step plans and report annually, by December 15, to the legislative education study committee and the governor.

F. Successful completion of a minimum of twenty-three units aligned to the state academic content and performance standards shall be required for graduation. These units shall be as follows:

(1) four units in English, with major emphasis on grammar and literature;

(2) three units in mathematics, at least one of which is equivalent to the algebra 1 level or higher;

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

(4) three units in social science, which shall include United States history and geography, world history and geography and government and economics;

(5) one unit in physical education;

(6) one unit in communication skills or business education, with a major emphasis on writing and speaking and that may include a language other than English;

(7) one-half unit in New Mexico history for students entering the ninth grade beginning in the 2005-2006 school year; and

(8) nine elective units and seven and one-half elective units for students entering the ninth grade in the 2005-2006 school year that meet department content and performance standards. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective. Pre-apprenticeship programs may be offered as electives. Media literacy may be offered as an elective.

G. For students entering the ninth grade beginning in the 2009-2010 school year, at least one of the units required for graduation shall be earned as an advanced placement or honors course, a dual-credit course offered in cooperation with an institution of higher education or a distance learning course.

H. The department shall establish a procedure for students to be awarded credit through completion of specified career technical education courses for certain graduation requirements.

I. Successful completion of the requirements of the New Mexico diploma of excellence shall be required for graduation for students entering the ninth grade beginning in the 2009-2010 school year. Successful completion of a minimum of twenty-four units aligned to the state academic content and performance standards shall be required to earn a New Mexico diploma of excellence. These units shall be as follows:

(1) four units in English, with major emphasis on grammar, nonfiction writing and literature;

(2) four units in mathematics, of which one shall be the equivalent to or higher than the level of algebra 2, unless the parent submitted written, signed permission for the student to complete a lesser mathematics unit;

(3) three units in science, two of which shall have a laboratory component;

(4) three and one-half units in social science, which shall include United States history and geography, world history and geography and government and economics, and one-half unit of New Mexico history;

(5) one unit in physical education;

(6) one unit in one of the following: a career cluster course, workplace readiness or a language other than English; and

(7) seven and one-half elective units that meet department content and performance standards. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective. Pre-apprenticeship programs may be offered as electives. Media literacy may be offered as an elective.

J. For students entering the eighth grade in the 2012-2013 school year, a course in health education is required prior to graduation. Health education may be required in either middle school or high school, as determined by the school district. Each school district shall submit to the department by the beginning of the 2011-2012 school year a health education implementation plan for the 2012-2013 and subsequent school years, including in which grade health education will be required and how the course aligns with department content and performance standards.

K. Final examinations shall be administered to all students in all classes offered for credit.

L. Until July 1, 2010, a student who has not passed a state graduation examination in the subject areas of reading, English, mathematics, writing, science and social science shall not receive a high school diploma. The state graduation examination on social science shall include a section on the constitution of the United States and the constitution of New Mexico. If a student exits from the school system at the end of grade twelve without having passed a state graduation examination, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student takes and passes the state graduation examination, the student may receive a high school diploma. Any student passing the state graduation examination and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which completion and examination occur.

M. Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule. The standards-based assessments required in Section 22-2C-4 NMSA 1978 may also serve as the assessment required for high school graduation. If a student exits from the school system at the end of grade twelve without having satisfied the requirements of this subsection, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student satisfies the requirement of this subsection, the student may receive a New Mexico diploma of excellence. Any student satisfying the requirements of this subsection and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which all requirements are satisfied.

N. As used in this section:

(1) "final next-step plan" means a next-step plan that shows that the student has committed or intends to commit in the near future to a four-year college or university, a two-year college, a trade or vocational program, an internship or apprenticeship, military service or a job;

(2) "interim next-step plan" means an annual next-step plan in which the student specifies post-high-school goals and sets forth the coursework that will allow the student to achieve those goals; and

(3) "next-step plan" means an annual personal written plan of studies developed by a student in a public school or other state-supported school or institution in consultation with the student's parent and school counselor or other school official charged with coursework planning for the student that includes one or more of the following:

- (a) advanced placement or honors courses;
- (b) dual-credit courses offered in cooperation with an institution of higher education;
- (c) distance learning courses;
- (d) career-technical courses; and
- (e) pre-apprenticeship programs.

O. The secretary may establish a policy to provide for administrative interpretations to clarify curricular and testing provisions of the Public School Code."

House Bill 44, aa

Approved March 10, 2010

LAWS 2010, CHAPTER 111

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING THE PUBLIC EDUCATION DEPARTMENT, SCHOOL DISTRICTS AND CHARTER SCHOOLS TO REPORT COHORT GRADUATION DATA.

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

Chapter 111 Section 1 Laws 2010

Section 1. Section 22-2C-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 20, as amended) is amended to read:

"22-2C-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM REPORTING-- PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

A. The department shall:

(1) issue a state identification number for each public school student for use in the accountability data system;

(2) adopt the format for reporting individual student assessments to parents. The student assessments shall report each student's progress and academic needs as measured against state standards;

(3) adopt the format for reporting annual yearly progress of public schools, school districts, state-chartered charter schools and the department. A school district's report shall include reports of all locally chartered charter schools in the school district. If the department has adopted a state improving schools program, the annual accountability report shall include the results of that program for each public school. The annual accountability report format shall be clear, concise and understandable to parents and the general public. All annual accountability reports shall ensure that the privacy of individual students is protected;

(4) require that when public schools, school districts, state-chartered charter schools and the state disaggregate and report school data for demographic subgroups, they include data disaggregated by gender;

(5) report cohort graduation data annually for the state, for each school district and for each state-chartered charter school and each public high school, based on information provided by all school districts and state-chartered charter schools according to procedures established by the department; provided that the report shall include the number and percentage of students in a cohort who:

(a) have graduated by August 1 of the fourth year after entering the ninth grade;

(b) have graduated in more than four years, but by August 1 of the fifth year after entering ninth grade;

(c) have received a state certificate by exiting the school system at the end of grade twelve without having satisfied the requirements for a high school diploma as provided in Section 22-13-1.1 NMSA 1978 or completed all course requirements but have not passed the graduation assessment or portfolio of standards-based indicators pursuant to Section 22-13-1.1 NMSA 1978;

(d) have dropped out or whose status is unknown;

(e) have exited public school and indicated an intent to pursue a general educational development certificate; or

(f) are still enrolled in public school;

(6) report annually, based on data provided by school districts and state-chartered charter schools, the number and percentage of public school students in each cohort in the state in grades nine through twelve who have advanced to the next grade or graduated on schedule, who remain enrolled but have not advanced to the next grade on schedule, who have dropped out or whose other educational outcomes are known to the department; and

(7) establish technical criteria and procedures to define which students are included or excluded from a cohort.

B. Local school boards and governing boards of charter schools may establish additional indicators through which to measure the school district's or charter school's performance in areas other than adequate yearly progress.

C. The school district's or state-chartered charter school's annual accountability report shall include a report of four- and five-year graduation rates for each public high school in the school district or state-chartered charter school. All

annual accountability reports shall ensure that the privacy of individual students is protected. As part of the graduation rate data, the school district or state-chartered charter school shall include data showing the number and percentage of students in the cohort:

(1) who have received a state certificate by exiting the school system at the end of grade twelve without having satisfied the requirements for a high school diploma as provided in Section 22-13-1.1 NMSA 1978 or completed all course requirements but have not passed the graduation assessment or portfolio of standards-based indicators pursuant to Section 22-13-1.1 NMSA 1978;

(2) who have dropped out or whose status is unknown;

(3) who have exited public school and indicated an intent to pursue a general educational development certificate;

(4) who are still enrolled; and

(5) whose other educational outcomes are known to the school district.

D. The school district's or state-chartered charter school's annual accountability report shall include the results of a survey of parents' views of the quality of their children's school. The survey shall be conducted each year in time to include the results in the annual accountability report. The survey shall compile the results of a written questionnaire that shall be sent home with the students to be given to their parents. The survey may be completed anonymously. The survey shall be no more than one page, shall be clearly and concisely written and shall include not more than twenty questions that shall be answered with options of a simple sliding scale ranging from "strongly agree" to "strongly disagree" and shall include the optional response "don't know". The survey shall also include a request for optional written comments, which may be written on the back of the questionnaire form. The questionnaire shall include questions in the following areas:

(1) parent-teacher-school relationship and communication;

(2) quality of educational and extracurricular programs;

(3) instructional practices and techniques;

(4) resources;

(5) school employees, including the school principal; and

(6) parents' views of teaching staff expectations for the students.

E. The department shall develop no more than ten of the survey questions, which shall be reviewed by the legislative education study committee prior to implementation. No more than five survey questions shall be developed by the local school board or governing body of a state-chartered charter school, and no more than five survey questions shall be developed by the staff of each public school; provided that at least one-half of those questions shall be developed by teachers rather than school administrators, in order to gather information that is specific to the particular community surveyed. The questionnaires shall indicate the public school site and shall be tabulated by the department within thirty days of receipt and shall be returned to the respective schools to be disseminated to all parents.

F. The school district's or state-chartered charter school's annual accountability report shall be adopted by the local school board or governing body of the state-chartered charter school, shall be published no later than November 15 of each year and shall be published at least once each school year in a newspaper of general circulation in the county where the school district or state-chartered charter school is located. In publication, the report shall be titled "The School District Report Card" or "The Charter School Report Card" and disseminated in accordance with guidelines established by the department to ensure effective communication with parents, students, educators, local policymakers and business and community organizations.

G. The annual accountability report shall include the names of those members of the local school board or the governing body of the charter school who failed to attend annual mandatory training.

H. The annual accountability report shall include data on expenditures for central office administration and expenditures for the public schools of the school district or charter school.

I. The department shall create an accountability data system through which data from each public school and each school district or state-chartered charter school may be compiled and reviewed. The department shall provide the resources to train school district and charter school personnel in the use of the accountability data system.

J. The department shall verify data submitted by the school districts and state-chartered charter schools.

K. At the end of fiscal year 2005, after the budget approval cycle, the department shall produce a report to the legislature that shows for all school districts using performance-based program budgeting the relationship between that portion of a school district's program cost generated by each public school in the school district and the budgeted expenditures for each public school in the school district as reported in the district's performance-based program budget. At the end of fiscal year 2006 and subsequent fiscal years, after the budget approval cycle, the department shall report on this relationship in all public schools in all school districts in the state.

L. When all public schools are participating in performance-based budgeting, the department shall recommend annually to the legislature for inclusion in the general appropriation act the maximum percentage of appropriations that may be expended in each school district for central office administration.

M. The department shall disseminate its statewide accountability report to school districts and charter schools; the governor, legislators and other policymakers; and business and economic development organizations.

N. As used in this section, "cohort" means a group of students who enter grade nine for the first time at the same time, plus those students who transfer into the group in later years and minus those students who leave the cohort for documented excusable reasons."

House Bill 69, aa

Approved March 10, 2010

LAWS 2010, CHAPTER 112

AN ACT

RELATING TO EDUCATION; PROVIDING FOR AN EDUCATIONAL DATA SYSTEM THAT SERVES PRE-KINDERGARTEN THROUGH POST-GRADUATE EDUCATION.

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

Chapter 112 Section 1 Laws 2010

Section 1. EDUCATIONAL DATA SYSTEM.--

A. As used in this section:

- (1) "council" means the data system council;
- (2) "data system" means the unified pre-kindergarten through post-graduate education accountability data system;
- (3) "data system partners" means the public education department and the higher education department;
- (4) "educational agencies" means other public agencies and institutions that provide educational services for resident school-age persons and children in state-funded private pre-kindergarten programs; and

(5) "pre-kindergarten through post-graduate system" means an integrated, seamless pre-kindergarten through post-graduate system of education.

B. The data system partners, in consultation with the council, shall establish a data system, the purpose of which is to:

(1) collect, integrate and report longitudinal student-level and educator data required to implement federally or state-required education performance accountability measures;

(2) conduct research and evaluation regarding federal, state and local education and training programs at all levels; and

(3) audit and ensure compliance of those programs with applicable federal or state requirements.

C. The components of the data system shall include the use of a common student identifier for the pre-kindergarten through post-graduate system and an educator identifier, both of which may include additional identifiers, with the ability to match educator data to student data and educator data to data from schools, post-secondary education programs and other educational agencies.

D. The data system partners shall convene a "data system council" made up of the following members:

(1) the secretary of public education or the secretary's designee;

(2) the secretary of higher education or the secretary's designee;

(3) the secretary of children, youth and families or the secretary's designee;

(4) the secretary of workforce solutions or the secretary's designee;

(5) the secretary of economic development or the secretary's designee;

(6) the secretary of information technology or the secretary's designee;

(7) the secretary of human services or the secretary's designee;

(8) the secretary of health or the secretary's designee;

(9) the director of the office of education accountability or the director's designee;

(10) the director of the public school facilities authority or the director's designee;

(11) a representative from the office of the governor;

(12) the presidents or their designees of one research university, one four-year comprehensive university, two branch colleges and two independent community colleges; provided that the presidents shall be selected by the data system partners in collaboration with organizations that represent the presidents of those institutions;

(13) at least six public school superintendents or their designees; provided that the appointments by the data system partners shall be made so that small, medium and large school districts are equally represented on the council at all times;

(14) at least three charter school administrators or their designees appointed by the data system partners;

(15) the director of the legislative education study committee or the director's designee; and

(16) the director of the legislative finance committee or the director's designee.

E. The council shall:

(1) meet at least four times each calendar year;

(2) create a management plan that assigns authority and responsibility for the operation of the data system among the educational agencies whose data will be included in the data system;

(3) assist the educational agencies whose data will be included in the data system in developing interagency agreements to:

(a) enable data to be shared across and between the educational agencies;

(b) define appropriate uses of data;

(c) assure researcher access to data;

(d) assure the security of the data system;

(e) ensure that the educational system agencies represented on the council, the legislative education study committee, the legislative finance committee and other users, as appropriate, have access to the data system; and

(f) ensure the privacy of any person whose personally identifiable information is contained in the data system;

(4) develop a strategic plan for the data system; and

(5) create policies that ensure users have prompt and reasonable access to reports generated from the data system, including:

(a) identification of categories of data system users based on security level;

(b) descriptions of the reports that the data system is capable of generating on demand; and

(c) definitions of the most timely process by which users may retrieve other reports without compromising the security of the data system or the privacy of any person whose personally identifiable information is contained in the data system.

F. The data system strategic plan shall include:

(1) the development of policy and practical goals, including time lines and budget goals, that are to be met through the implementation of the data system; and

(2) the training and professional development that the data system partners will provide to users who will be analyzing, accessing or entering data into the data system.

G. The confidentiality of personally identifiable student and educator data shall be safeguarded consistent with the requirements of state and federal law. To the extent permitted by the data system partners in conformance with state and federal law, public entities participating in the data system may:

(1) disclose or redisclose data for educational purposes and longitudinal comparisons, analyses or studies, including those authorized by law;

(2) enter into agreements with other organizations for research studies to improve instruction for the benefit of local educational agencies, public schools and post-secondary educational institutions, subject to safeguards to ensure that the research organization uses the student records only for the authorized study purposes; and

(3) disclose education records to a student's former secondary school or school district upon request solely for purposes of evaluation or accountability for its programs.

H. Nothing in this section precludes the data system partners, in consultation with school districts, charter schools and public post-secondary educational institutions, from collecting and distributing aggregate data about students or educators or data about an individual student or educator without personally identifiable information.

I. The data system partners, in consultation with school districts, charter schools and public post-secondary educational institutions, shall jointly adopt rules to carry out the provisions of this section, including security administration requirements and the provision of training for data entry personnel at all levels.

J. By December 31 of each year, the data system partners shall submit a data system status report to the legislature and to the governor. Prior to submission and publication of the report referred to in subsection K, the data system partners shall distribute a draft of the report to school districts, charter schools and all public post-secondary educational institutions to allow comment on the draft report.

K. The data system partners, in consultation with school districts, charter schools and public post-secondary educational institutions, shall develop and adopt the content and a format for the report, including the ability of the data system to:

(1) connect student records from pre-kindergarten through post-graduate education;

(2) connect public school educator data to student data;

(3) match individual public school students' test records from year to year to measure academic growth, including student-level college and career readiness test scores;

(4) report the number and percentage of untested public school students by school district and by school and by major ethnic group, special education status, poverty status and gender;

(5) report high school longitudinal graduation and dropout data, including information that distinguishes between dropouts or students whose whereabouts are unknown and students who have transferred to other schools, including private schools or home schools, other school districts or other states;

(6) provide post-secondary remediation data, including assessment scores on exams used to determine the need for remediation;

(7) provide post-secondary remedial course enrollment history, including the number and type of credit and noncredit remedial courses being taken;

(8) report post-secondary retention data that indicate whether students are returning the second fall term after being enrolled as full-time first-time degree-seeking students;

(9) report to New Mexico public high schools on their students who enroll in a public post-secondary educational institution within three years of graduating or leaving the high school regarding freshman-year outcomes;

(10) provide post-secondary student completion status, including information that indicates if students are making annual progress toward their degrees;

(11) include data regarding students who have earned a general educational development certificate in reporting post-secondary outcomes;

(12) report data collected for the educator accountability reporting system;

(13) report pre-kindergarten through post-graduate student-level enrollment data, demographic information and program participation information;

(14) report pre-kindergarten through post-graduate student-level transcript information, including information on courses completed, grades earned and cumulative grade point average;

(15) connect performance with financial information;

(16) establish and maintain a state data audit system to assess the quality, validity and reliability of data; and

(17) provide any other student-level and educator data necessary to assess the performance of the pre-kindergarten through post-graduate system.

HEC/House Bill 70, aa

Approved March 10, 2010

LAWS 2010, CHAPTER 113

AN ACT

RELATING TO SCHOOL PERSONNEL; CHANGING REQUIREMENTS FOR MENTORSHIP OF LEVEL ONE TEACHERS; PROVIDING FOR FUNDING FOR MENTORSHIP BEYOND THE FIRST YEAR IN CERTAIN CIRCUMSTANCES.

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

Chapter 113 Section 1 Laws 2010

Section 1. Section 22-10A-7 NMSA 1978 (being Laws 2003, Chapter 153, Section 38, as amended by Laws 2005, Chapter 315, Section 5 and by Laws 2005, Chapter 316, Section 2) 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;
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 education and vocational education.

G. Beginning with the 2003-2004 school year, 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 thousand dollars (\$30,000) for a standard nine and one-half month contract.

H. Teachers who hold level one licenses on the effective date of the 2003 act must be evaluated by the end of the 2006-2007 school year."

Chapter 113 Section 2 Laws 2010

Section 2. Section 22-10A-9 NMSA 1978 (being Laws 2003, Chapter 153, Section 40, as amended) is amended to read:

"22-10A-9. TEACHER MENTORSHIP PROGRAM FOR BEGINNING TEACHERS--PURPOSE--DEPARTMENT DUTIES.--

A. The purpose of the teacher mentorship program is to provide beginning teachers with an effective transition into the teaching field, to build on their initial preparation and to ensure their success in teaching; to improve the achievement of students; and to retain capable teachers in the classroom and to remove teachers who show little promise of success.

B. The department shall develop a framework for a teacher mentorship program for all first-year teachers. The program shall provide mentorship services by level two or level three mentors to the first-year teacher for the full school year. If sufficient mentorship funds are available, the department may provide funding for mentorship services that extend beyond the first year if the local superintendent or charter school administrator certifies to the secretary that further formal mentorship of a beginning teacher will accomplish the purposes of Subsection A of this section; provided that the state shall not pay for more than three years' mentorship for any beginning teacher.

C. The department shall work with licensed school employees, representatives from teacher preparation programs and the higher education department to establish the framework.

D. The framework shall include:

(1) individual support and assistance for each beginning teacher from a designated mentor;

(2) structured training for mentors;

(3) an ongoing, formative evaluation that is used for the improvement of teaching practice;

(4) procedures for a summative evaluation of beginning teachers' performance during at least the first three years of teaching, including annual assessment of suitability for license renewal, and for final assessment of beginning teachers seeking level two licensure;

(5) support from local school boards, school administrators and other school district personnel; and

(6) regular review and evaluation of the teacher mentorship program.

E. The department shall:

(1) require submission and approval of each school district's teacher mentorship program;

(2) provide technical assistance to school districts that do not have a well-developed teacher mentorship program in place;

(3) encourage school districts to collaborate with teacher preparation program administrators at institutions of higher education, career educators, educational organizations, regional service centers and other state and community leaders in the teacher mentorship program; and

(4) distribute no less than fifty percent of available funds for mentorship programs to school districts on or before September 15 of each fiscal year according to the estimated number of teachers eligible to participate in a mentorship program on the fortieth day of the school year and, on or before January 15 of each fiscal year, distribute the balance of the available funds based on the actual number of eligible teachers participating in a mentorship program on the fortieth day of the school year, adjusted for any over- or under-estimation made in the first allocation.

F. The department shall require that teacher preparation programs collaborate with colleges of arts and sciences and high schools to develop a model to provide mentorship services with structured supervision and feedback to each of their graduates who have obtained a teaching position in a public high school, including charter schools; develop cost estimates; and provide recommendations to the legislative

education study committee by November 1, 2007. The model shall provide for the following:

(1) mentorship services for the first year as a level one teacher to each of their graduates who has obtained a teaching position in any New Mexico public high school, including charter schools; provided that teacher preparation programs may enter into contracts or memoranda of agreement with each other or with level three teachers in providing services to their students;

(2) an annual report to the department of the number of teachers that have completed each of their programs the previous spring or summer and have been hired by public high schools, including charter schools, for the following school year; and

(3) an annual report providing a description of the mentorship services that will be provided to each of their teachers, including the name of the teacher, the grade level the teacher has been hired to teach and the name of the school and district where the teacher has been hired."

House Bill 71, aa

Approved March 10, 2010

LAWS 2010, CHAPTER 114

AN ACT

RELATING TO EDUCATION; ENACTING THE HISPANIC EDUCATION ACT; CREATING THE HISPANIC EDUCATION LIAISON OF THE PUBLIC EDUCATION DEPARTMENT; PROVIDING POWERS AND DUTIES; CREATING AN ADVISORY COUNCIL.

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

Chapter 114 Section 1 Laws 2010

Section 1. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Hispanic Education Act"."

Chapter 114 Section 2 Laws 2010

Section 2. A new section of the Public School Code is enacted to read:

"PURPOSE.--The purpose of the Hispanic Education Act is to:

A. provide for the study, development and implementation of educational systems that affect the educational success of Hispanic students to close the achievement gap and increase graduation rates;

B. encourage and foster parental involvement in the education of their children; and

C. provide mechanisms for parents, community and business organizations, public schools, school districts, charter schools, public post-secondary educational institutions, the department and state and local policymakers to work together to improve educational opportunities for Hispanic students for the purpose of closing the achievement gap, increasing graduation rates and increasing post-secondary enrollment, retention and completion."

Chapter 114 Section 3 Laws 2010

Section 3. A new section of the Public School Code is enacted to read:

"DEFINITION.--As used in the Hispanic Education Act, "liaison" means the Hispanic education liaison."

Chapter 114 Section 4 Laws 2010

Section 4. A new section of the Public School Code is enacted to read:

"HISPANIC EDUCATION LIAISON--CREATED--DUTIES.--

A. The "Hispanic education liaison" is created in the department.

B. The liaison shall:

(1) focus on issues related to Hispanic education and advise the secretary on the development and implementation of policy regarding the education of Hispanic students;

(2) advise the department and the commission on the development and implementation of the five-year strategic plan for public elementary and secondary education in the state as the plan relates to Hispanic student education;

(3) assist and be assisted by other staff in the department to improve elementary, secondary and post-secondary educational outcomes for Hispanic students;

(4) serve as a resource to enable school districts and charter schools to provide equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Hispanic students enrolled in public schools;

(5) support and consult with the Hispanic education advisory council; and

(6) support school districts and charter schools to recruit parents on site-based and school district committees that represent the ethnic diversity of the community."

Chapter 114 Section 5 Laws 2010

Section 5. A new section of the Public School Code is enacted to read:

"HISPANIC EDUCATION ADVISORY COUNCIL.--

A. The "Hispanic education advisory council" is created as an advisory council to the secretary. The council shall advise the secretary on matters related to improving public school education for Hispanic students, increasing parent involvement and community engagement in the education of Hispanic students and increasing the number of Hispanic high school graduates who succeed in post-secondary academic, professional or vocational education.

B. The secretary shall appoint no more than twenty-three members to the council who are knowledgeable about and interested in the education of Hispanic students, including representatives of public schools; post-secondary education and teacher preparation programs; parents; Hispanic cultural, community and business organizations; other community and business organizations; and other interested persons. The secretary shall give due regard to geographic representation. Members shall serve at the pleasure of the secretary.

C. The council shall elect a chairperson and such other officers as it deems necessary.

D. The council shall meet as necessary, but at least twice each year.

E. The council shall advise the secretary on matters related to Hispanic education in New Mexico.

F. Members of the council shall not receive per diem and mileage or other compensation for their services."

Chapter 114 Section 6 Laws 2010

Section 6. A new section of the Public School Code is enacted to read:

"STATEWIDE STATUS REPORT.--

A. The department, in collaboration with the higher education department, shall submit an annual preschool through post-secondary statewide Hispanic education status report no later than November 15 to the governor and the legislature through the legislative education study committee. A copy shall be provided to the legislative library in the legislative council service.

B. The status report shall include the following information, by school district, by charter school and statewide, which may be compiled from data otherwise required to be submitted to the department:

(1) Hispanic student achievement at all grades;

(2) attendance for all grades;

(3) the graduation rates for Hispanic students;

(4) the number of Hispanic students in schools that make adequate yearly progress and in schools at each level of school improvement or restructuring; and

(5) the number and type of bilingual and multicultural programs in each school district and charter school.

C. The status report shall include the following information, by post-secondary educational institution, which may be compiled from data otherwise required to be submitted to the higher education department:

(1) Hispanic student enrollment;

(2) Hispanic student retention; and

(3) Hispanic student completion rates."

Chapter 114 Section 7 Laws 2010

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.

House Bill 150, aa

Approved March 10, 2010

LAWS 2010, CHAPTER 115

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING LOCAL SCHOOL BOARDS AND GOVERNING AUTHORITIES OF CHARTER SCHOOLS TO ESTABLISH FINANCE SUBCOMMITTEES AND AUDIT COMMITTEES; REQUIRING MEMBERSHIP TO INCLUDE PERSONS WITH ACCOUNTING OR FINANCIAL EXPERIENCE AND PARENTS.

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

Chapter 115 Section 1 Laws 2010

Section 1. A new section of the Public School Code is enacted to read:

"LOCAL SCHOOL BOARD FINANCE SUBCOMMITTEE--AUDIT COMMITTEE--MEMBERSHIP--DUTIES.--

A. As used in this section, "local school board" includes the governing authority of a charter school.

B. Each local school board shall appoint at least two members of the board as a finance subcommittee to assist the board in carrying out its budget and finance duties.

C. The finance subcommittee shall:

(1) make recommendations to the local school board in the following areas:

(a) financial planning, including reviews of the school district's revenue and expenditure projections;

(b) review of financial statements and periodic monitoring of revenues and expenses;

(c) annual budget preparation and oversight; and

(d) procurement; and

(2) serve as an external monitoring committee on budget and other financial matters.

D. Except as otherwise provided in this section, each local school board shall appoint an audit committee that consists of two board members, one volunteer

member who is a parent of a student attending that school district and one volunteer member who has experience in accounting or financial matters. The superintendent and the school district business manager shall serve as ex-officio members of the committee. A local school board with more than five members may appoint more than two board members to its audit committee. The audit committee shall:

- (1) evaluate the request for proposal for annual financial audit services;
- (2) recommend the selection of the financial auditor;
- (3) attend the entrance and exit conferences for annual and special audits;
- (4) meet with external financial auditors at least monthly after audit field work begins until the conclusion of the audit;
- (5) be accessible to the external financial auditors as requested to facilitate communication with the board and the superintendent;
- (6) track and report progress on the status of the most recent audit findings and advise the local school board on policy changes needed to address audit findings;
- (7) provide other advice and assistance as requested by the local school board; and
- (8) be subject to the same requirements regarding the confidentiality of audit information as those imposed upon the local school board by the Audit Act and rules of the state auditor."

HEC/House Bills 227 & 251, aa

Approved March 10, 2010

LAWS 2010, CHAPTER 116

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ESTABLISHING STANDARDIZED REPORTING DATES.

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

Chapter 116 Section 1 Laws 2010

Section 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level;

B. "adequate yearly progress" means the measure adopted by the department based on federal requirements to assess the progress that a public school or school district or the state makes toward improving student achievement;

C. "commission" means the public education commission;

D. "department" means the public education department;

E. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

F. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

G. "licensed school employee" means teachers, school administrators and instructional support providers;

H. "local school board" means the policy-setting body of a school district;

I. "local superintendent" means the chief executive officer of a school district;

J. "parent" includes a guardian or other person having custody and control of a school-age person;

K. "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

L. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

M. "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

N. "school administrator" means a person licensed to administer in a school district and includes school principals and central district administrators;

O. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution;

P. "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;

Q. "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

R. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

S. "school employee" includes licensed and nonlicensed employees of a school district;

T. "school principal" means the chief instructional leader and administrative head of a public school;

U. "school year" means the total number of contract days offered by public schools in a school district during a period of twelve consecutive months;

V. "secretary" means the secretary of public education;

W. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley

crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

X. "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico;

Y. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

Z. "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

AA. "certified school instructor" means a teacher or instructional support provider; and

BB. "certified school employee" or "certified school personnel" means a licensed school employee."

Chapter 116 Section 2 Laws 2010

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. For the first year of operation, the budget of every state-chartered charter school shall be based on the projected number of program units generated by that charter school and its students, using the at-risk index and the instructional staff training and experience index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the budgets of state-chartered charter schools shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and its own instructional staff training and experience index and the at-risk index of the school district in which the state-chartered charter school is geographically located. The budget shall be submitted to the division for approval or amendment pursuant to the Public School Finance Act and the Charter Schools Act.

B. Each locally chartered charter school shall submit to the local school board a school-based budget. For the first year of operation, the budget of every locally chartered charter school shall be based on the projected number of program units generated by the charter school and its students, using the at-risk index and the instructional staff training and experience index of the school district in which it is

geographically located. For second and subsequent fiscal years of operation, the budgets of locally chartered charter schools shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and its own instructional staff training and experience index and the at-risk index of the school district in which the locally chartered charter school is geographically located. The budget shall be submitted to the local school board for approval or amendment. The approval or amendment authority of the local school board relative to the charter school budget is limited to ensuring that sound fiscal practices are followed in the development of the budget and that the charter school budget is within the allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed budget, but shall approve or disapprove the budget in its entirety. Upon final approval of the local budget by the local school board, the individual charter school budget shall be included separately in the budget submission to the department required pursuant to the Public School Finance Act and the Charter Schools Act.

C. For the first year of operation after a locally chartered charter school converts to a state-chartered charter school or a state-chartered charter school converts to a locally chartered charter school, the charter school's budget shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and the instructional staff training and experience index and the at-risk index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the charter school shall follow the provisions of Subsection A or B of this section, as applicable.

D. Notwithstanding the provisions of Subsections A through C of this section, each charter school that was in existence in fiscal year 2009 shall be held harmless in the calculation of its instructional staff training and experience index for two fiscal years. For fiscal years 2010 and 2011, the department shall use the greater of the charter school's 2008-2009 funded instructional staff training and experience index or the charter school's own instructional staff training and experience index. Beginning in fiscal year 2012, each charter school shall use its own instructional staff training and experience index."

Chapter 116 Section 3 Laws 2010

Section 3. Section 22-8-13 NMSA 1978 (being Laws 1974, Chapter 8, Section 3, as amended) is amended to read:

"22-8-13. REPORTS.--

A. Each public school shall keep accurate records concerning membership in the public school.

B. The dates for which MEM is reported are as follows:

- (1) the first reporting date, the second Wednesday in October;
- (2) the second reporting date, the second Wednesday in December; and
- (3) the third reporting date, the second Wednesday in February.

C. The superintendent of each school district or head administrator of a state-chartered charter school shall maintain the following reports for each reporting period:

- (1) the basic program MEM by grade in each public school;
- (2) the early childhood education MEM;
- (3) the special education MEM in each public school in class C and class D programs as defined in Section 22-8-21 NMSA 1978;
- (4) the number of class A and class B programs as defined in Section 22-8-21 NMSA 1978; and
- (5) the full-time-equivalent MEM for bilingual multicultural education programs.

D. The superintendent of each school district and the head administrator of each state-chartered charter school shall furnish all reports required by law or the department to the department within ten days of the close of each reporting period. Failure of the department to approve timely submissions shall not cause a school district or charter school to be found noncompliant with the requirements of this section.

E. All information required pursuant to this section shall be on forms prescribed and furnished by the department. A copy of any report made pursuant to this section shall be kept as a permanent record of the school district or charter school and shall be subject to inspection and audit at any reasonable time.

F. The department may withhold up to one hundred percent of allotments of funds to any school district or state-chartered charter school where the superintendent or head administrator has failed to comply with the requirements of this section. Withholding may continue until the superintendent or head administrator complies with and agrees to continue complying with requirements of this section.

G. The provisions of this section may be modified or suspended by the department for any school district or school or state-chartered charter school operating under the Variable School Calendar Act. The department shall require MEM reports consistent with the calendar of operations of such school district or school or state-

chartered charter school and shall calculate an equivalent MEM for use in projecting school district or charter school revenue."

Chapter 116 Section 4 Laws 2010

Section 4. Section 22-8-23.1 NMSA 1978 (being Laws 1990 (1st S.S.), Chapter 3, Section 7, as amended) is amended to read:

"22-8-23.1. ENROLLMENT GROWTH PROGRAM UNITS.--

A. A school district or charter school with an increase in MEM equal to or greater than one percent, when compared with the immediately preceding year, is eligible for additional program units. The increase in MEM shall be calculated as follows:

(Current Year MEM - Previous Year MEM)

Previous Year MEM X 100 = Percent Increase.

The number of additional program units shall be calculated as follows:

$((\text{Current Year MEM} - \text{Previous Year MEM}) - (\text{Current Year MEM} \times .01)) \times 1.5 = \text{Units.}$

B. In addition to the units calculated in Subsection A of this section, a school district or charter school with an increase in MEM equal to or greater than one percent, when compared with the immediately preceding year, is eligible for additional program units. The increase in MEM shall be calculated in the following manner:

(Current Year MEM - Previous Year MEM)

Previous Year MEM X 100 = Percent Increase.

The number of additional program units to which an eligible school district or charter school is entitled under this subsection is the number of units computed in the following manner:

$(\text{Current Year MEM} - \text{Previous Year MEM}) \times .50 = \text{Units.}$

C. As used in this section:

(1) "current year MEM" means MEM on the first reporting date of the current year;

(2) "MEM" means the total school district or charter school membership, including early childhood education full-time-equivalent membership and special education membership, but excluding full-day kindergarten membership for the

first year that full-day kindergarten is implemented in a school pursuant to Subsection D of Section 22-13-3.2 NMSA 1978; and

(3) "previous year MEM" means MEM on the first reporting date of the previous year."

Chapter 116 Section 5 Laws 2010

Section 5. Section 22-8-23.4 NMSA 1978 (being Laws 2003, Chapter 144, Section 2 and Laws 2003, Chapter 152, Section 9, as amended) is amended to read:

"22-8-23.4. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS--CERTIFIED TEACHERS PROGRAM UNITS.--The number of program units for teachers certified by the national board for professional teaching standards is determined by multiplying by one and one-half the number of teachers certified by the national board for professional teaching standards employed by the school district or charter school on or before the first reporting date of the school year and verified by the department. Department approval of these units shall be contingent on verification by the school district or charter school that these teachers are receiving a one-time salary differential equal to or greater than the amount generated by the units multiplied by the program unit value during the fiscal year in which the school district or charter school will receive these units."

Chapter 116 Section 6 Laws 2010

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, 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 instructional staff training and experience index 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, 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 116 Section 7 Laws 2010

Section 7. Section 22-8-29 NMSA 1978 (being Laws 1967, Chapter 16, Section 78, as amended) is amended to read:

"22-8-29. TRANSPORTATION DISTRIBUTIONS--REPORTS--PAYMENTS.--

A. Prior to November 15 of each year, each local school board of a school district and governing body of a state-chartered charter school shall report to the state transportation director, upon forms furnished by the state transportation director, the following information concerning the school district's or state-chartered charter school's operation on the first reporting date of the current year:

(1) the number and designation of school bus routes in operation in the school district;

(2) the number of miles traveled by each school bus on each school bus route, showing the route mileage in accordance with the type of road surface traveled;

(3) the number of students transported on the first reporting date of the current year and adjusted for special education students on December 1;

(4) the projected number of students to be transported in the next school year;

(5) the seating capacity, age and mileage of each bus used in the school district for student transportation; and

(6) the number of total miles traveled for each school district's or state-chartered charter school's per capita feeder routes.

B. Each local school board of a school district and governing body of a state-chartered charter school maintaining a school bus route shall make further reports to the state transportation director at other times specified by the state transportation director.

C. The state transportation director shall certify to the secretary that the allocations from the transportation distributions to each school district and state-chartered charter school are based upon the transportation distribution formula established in the Public School Code. The allocations for the first six months of a school year shall be based upon the tentative transportation budget of the school district or state-chartered charter school for the current fiscal year. Allocations to a school district or state-chartered charter school for the remainder of the school year shall adjust the amount received by the school district or state-chartered charter school so that it equals the amount the school district or state-chartered charter school is entitled to receive for the entire school year based upon the November 15 report and subject to audit and verification.

D. The department shall make periodic installment payments to school districts and state-chartered charter schools during the school year from the transportation distributions, based upon the allocations certified by the state transportation director."

Chapter 116 Section 8 Laws 2010

Section 8. Section 22-26-9 NMSA 1978 (being Laws 2007, Chapter 366, Section 23) is amended to read:

"22-26-9. CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY TAX REVENUE.--If, in an election held after July 1, 2007, the qualified electors of a school district have voted in favor of the imposition of a property tax as provided in Section 22-26-3 NMSA 1978, the amount of tax revenue to be distributed to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the first reporting date of the prior school year is to the total such enrollment in the district; provided that, in the case of an approved charter school that had not commenced classroom instruction in the prior school year, the estimated full-time-equivalent enrollment in the first year of instruction, as shown in the approved charter school application, shall be used, subject to adjustment after the first reporting date. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue

to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school."

Chapter 116 Section 9 Laws 2010

Section 9. TEMPORARY PROVISION--STATUTORY REFERENCES TO PUBLIC SCHOOL FORTIETH-, EIGHTIETH- AND ONE-HUNDRED-TWENTIETH-DAY REPORTS--PROJECTIONS AND BUDGET PREPARATION.--

A. References in the Public School Code pertaining to the fortieth-day or forty-day report of public school membership or enrollment shall be deemed to be references to the first reporting date, which is the second Wednesday in October.

B. References in the Public School Code pertaining to the eightieth-day or eighty-day report of public school membership or enrollment shall be deemed to be references to the second reporting date, which is the second Wednesday in December.

C. References in the Public School Code pertaining to the one-hundred-twentieth-day or one-hundred-twenty-day report of public school membership or enrollment shall be deemed to be references to the third reporting date, which is the second Wednesday in February.

D. As the public schools transition from former reporting dates to new reporting dates, the public education department may use any combination of former and new reporting dates as necessary to develop membership and cost projections and budgets for the 2010-2011 school year.

House Bill 232, aa

Approved March 10, 2010

LAWS 2010, HOUSE JOINT RESOLUTION 9

A JOINT RESOLUTION

PROPOSING THE TRANSFER OF A STATE-OWNED BUILDING AND REAL PROPERTY AT 401 ROMA NW, ALBUQUERQUE, NEW MEXICO, FROM THE STATE TO THE COUNTY OF BERNALILLO.

WHEREAS, Section 13-6-2 NMSA 1978 provides that a state agency may sell or otherwise dispose of real property by negotiated sale or donation to a local public body; and

WHEREAS, Section 13-6-3 NMSA 1978 provides that any sale, trade or lease for a period exceeding twenty-five years in duration of real property belonging to any state agency, which sale, trade or lease shall be for a consideration of one hundred thousand dollars (\$100,000) or more, shall be subject to the ratification and approval of the state legislature prior to the sale, trade or lease becoming effective; and

WHEREAS, the property control division of the general services department owns a seven-story building and real property located at 401 Roma avenue NW, Albuquerque, New Mexico, more particularly described as:

"TR IN THE ELY POR OF SUMMARY PLAT MUNICIPAL ADDN #12 REPL OF BLK 15 PERFECTO ARMIJO & BROS ADDN & BLK G MANDELL BUSINESS & RESIDENTIAL AND CONT of 0.7603 AC"; and

WHEREAS, the state no longer has a need for the building and real property; and

WHEREAS, the county of Bernalillo will rehabilitate and renovate the building and real property for use as a charter school and for housing public safety entities; and

WHEREAS, the building and real property have a value in excess of one hundred thousand dollars (\$100,000);

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed transfer of the building and real property at 401 Roma avenue NW, Albuquerque, New Mexico, from the state to the county of Bernalillo be hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services and to the chair of the board of county commissioners and the county manager of the county of Bernalillo.

House Joint Resolution 9

LAWS 2010, SENATE JOINT RESOLUTION 9

A JOINT RESOLUTION

GRANTING PRIOR APPROVAL TO THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT TO EXCHANGE STATE-OWNED LAND FOR PRIVATELY OWNED LAND NEAR THE NEW MEXICO INSPECTION STATION AT SANTA TERESA IN DONA ANA COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale or trade or lease of more than twenty-five years of real property belonging to a state agency for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the property control division of the general services department has title to a number of parcels totaling approximately four and eighty-two hundredths acres within Section 18, Township 29S in Dona Ana county; and

WHEREAS, a three and seventy-nine hundredths acre parcel of land in Section 18, Township 29S that is adjacent to a planned new port of entry and that is needed by the state is currently under private ownership; and

WHEREAS, the property that is owned by the state is not needed by the state for any purpose, but the privately owned property to be traded for is necessary to construct a new port of entry;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the property control division trade a portion of the described state-owned property in exchange for privately owned land of approximately equal value near the proposed new port of entry and that the trade be hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978, subject to the conditions of this resolution; and

BE IT FURTHER RESOLVED that, if the property is traded, both parcels be appraised by one appraiser who is mutually agreeable to the property control division, the private owner and the property tax division of the taxation and revenue department and that the appraisal of both parcels be reviewed and validated by the property tax division; and

BE IT FURTHER RESOLVED that the property not be traded until the trade has been reviewed by the capitol buildings planning commission; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the property control division of the general services department, the property tax division of the taxation and revenue department, the border authority and the private landowner.

Senate Joint Resolution 9

LAWS 2010, SENATE JOINT RESOLUTION 16

A JOINT RESOLUTION

RATIFYING AND APPROVING THE LEASE, SALE OR TRADE OF REAL PROPERTY
IN THE TOWN OF TAOS.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale or trade or lease of more than twenty-five years of real property belonging to a state agency for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the property control division of the general services department owns certain real property in Taos county, New Mexico, described as:

A lot situated within "Taos Mini-Industrial Park", within the Fernando de Taos Grant, and shown as Part of Tract 36, on Map 20, Survey 2 on the Taos County Reassessment Survey of 1941; and

Beginning at the one and half mile stone monument on the northerly boundary of the Cristoval de la Serna Grant;

Thence S. 50°44'00" E., 113.00' to the southeast corner;

Thence N. 41°16'00" E., 38.10' to a point;

Thence N. 41°25'00" E., 104.10' to a point;

Thence N. 45°42'00" E., 104.70' to a point;

Thence N. 49°57'00" E., 202.20' to the northeast corner;

Thence N. 53°24'00" W., 234.07' to the northwest corner;

Thence S. 39°16'00" W., 433.95' to the southwest corner;

Thence S. 50°44'00" E., 66.35' to the point and place of beginning;

Said lot "E" containing 2.000 acres more or less; and

WHEREAS, the property is not needed by the state for any purpose and should be traded or sold; and

WHEREAS, the town of Taos is in desperate need of a new facility for its police department and currently has plans to renovate this building, which will revitalize this blighted property and increase public safety in the immediate area affected by gang activity, as well as the community at large;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the property control division of the general services

department be authorized to dispose of the real property described in this resolution to the town of Taos by negotiated sale or trade; and

BE IT FURTHER RESOLVED that, if the property control division of the general services department determines that a land grant has the right of first refusal to purchase the property pursuant to Section 13-6-5 NMSA 1978, no sale or trade of the property shall be made until the division complies with the requirements of that section; and

BE IT FURTHER RESOLVED that the property control division of the general services department may trade or sell the described property to the town of Taos and that the trade or sale is hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978, subject to the conditions of this resolution; and

BE IT FURTHER RESOLVED that if the property is traded, both parcels shall be appraised by one appraiser that is mutually agreeable to the property control division of the general services department, the town of Taos and the property tax division of the taxation and revenue department, and the appraisal of both parcels shall be reviewed and validated by the property tax division of the taxation and revenue department; and

BE IT FURTHER RESOLVED that if the property is sold, the property shall be appraised by an appraiser selected by the property control division of the general services department and approved by the property tax division of the taxation and revenue department, and the appraisal of the property shall be reviewed and validated by the property tax division of the taxation and revenue department; and

BE IT FURTHER RESOLVED that the property shall not be sold or traded until the sale or trade has been reviewed by the capitol buildings planning commission; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the property control division of the general services department, the town of Taos and the capitol buildings planning commission.

SFL/Senate Joint Resolution 16

OFFICIAL ROSTER OF THE STATE OF NEW MEXICO

UNITED STATES SENATORS

Jeff Bingaman, Democrat, Silver City

Tom Udall, Democrat, Albuquerque

UNITED STATES REPRESENTATIVES

Martin T. Heinrich, Democrat, 1st Congressional District - Albuquerque

Harry Teague, Democrat, 2nd Congressional District - Albuquerque

Ben R. Lujan, Democrat, 3rd Congressional District - Santa Fe

STATE OFFICIALS

Bill Richardson, Democrat	Governor
Diane D. Denish, Democrat	Lieutenant Governor
Mary Herrera, Democrat	Secretary of State
Hector H. Balderas, Democrat	State Auditor
James B. Lewis, Democrat	State Treasurer
Gary K. King, Democrat	Attorney General
Patrick H. Lyons, Republican	Commissioner of Public Lands
Jason A. Marks, Democrat	Public Regulation Commissioner, District 1
David W. King, Republican	Public Regulation Commissioner, District 2
Jerome D. Block, Jr., Democrat	Public Regulation Commissioner, District 3
Carol K. Sloan, Democrat	Public Regulation Commissioner, District 4
Sandy R. Jones, Democrat	Public Regulation Commissioner, District 5

JUSTICES OF THE SUPREME COURT

Edward L. Chavez, Chief Justice

Patricio M. Serna

Petra Jimenez Maes

Richard C. Bosson

Charles W. Daniels

JUDGES OF THE COURT OF APPEALS

Cynthia A. Fry, Chief Judge

James J. Wechsler

Michael D. Bustamante

Jonathan B. Sutin

Celia Foy Castillo

Roderick T. Kennedy

Michael E. Vigil

Robert E. Robles

Linda M. Vanzi

Timothy L. Garcia

DISTRICT COURTS

DISTRICT JUDGES

FIRST JUDICIAL DISTRICT

Santa Fe, Los Alamos & Rio Arriba Counties

Division	I	Barbara J. Vigil	Santa Fe
Division	II	Sarah M. Singleton	Santa Fe
Division	III	Raymond Z. Ortiz	Santa Fe
Division	IV	Michael Vigil	Santa Fe
Division	V	Sheri A. Raphaelson	Santa Fe
Division	VI	Stephen Pfeffer	Santa Fe
Division	VII	Daniel Sanchez	Santa Fe

SECOND JUDICIAL DISTRICT

Bernalillo County

Division	I	William E. Parnall	Albuquerque
Division	II	Stan Whitaker	Albuquerque
Division	III	M. Monica Zamora	Albuquerque

Division	IV	Beatrice Brickhouse	Albuquerque
Division	V	Ted C. Baca	Albuquerque
Division	VI	Neil C. Candelaria	Albuquerque
Division	VII	John J. Romero	Albuquerque
Division	VIII	Ross C. Sanchez	Albuquerque
Division	IX	Bob Schwartz	Albuquerque
Division	X	Theresa Baca	Albuquerque
Division	XI	Gerard Lavelle	Albuquerque
Division	XII	Clay Campbell	Albuquerque
Division	XIII	Valerie A. Huling	Albuquerque
Division	XIV	Reed S. Sheppard	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	Albert S. "Pat" Murdoch	Albuquerque
Division	XX	Jacqueline D. Flores	Albuquerque
Division	XXI	Angela A. Jewell	Albuquerque
Division	XXII	Deborah Davis Walker	Albuquerque
Division	XXIII	Geraldine E. Rivera	Albuquerque
Division	XXIV	Kenneth H. Martinez	Albuquerque
Division	XXV	Elizabeth Whitefield	Albuquerque
Division	XXVI	Charles Brown	Albuquerque

**THIRD JUDICIAL DISTRICT
Doña Ana County**

Division	I	Manuel I. Arrieta	Las Cruces
Division	II	Stephen Bridgforth	Las Cruces
Division	III	Mike Murphy	Las Cruces
Division	IV	Jerald A. Valentine	Las Cruces
Division	V	Lisa C. Schultz	Las Cruces
Division	VI	Jim 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	Eugenio S. Mathis	Las Vegas
Division	II	Abigail Aragon	Las Vegas
Division	III	Matthew J. Sandoval	Las Vegas

FIFTH JUDICIAL DISTRICT
Lea, Eddy & Chaves Counties

Division	I	J. Richard Brown	Carlsbad
Division	II	Freddie J. Romero	Roswell
Division	III	William A. Shoobridge	Lovington
Division	IV	Don Maddox	Lovington
Division	V	Jane Shuler Gray	Carlsbad
Division	VI	Ralph D. Shamus	Roswell
Division	VII	Gary L. Clingman	Lovington
Division	VIII	Charles C. Currier, III	Roswell
Division	IX	Thomas A. Rutledge	Carlsbad
Division	X	Steven L. Bell	Chaves

**SIXTH JUDICIAL DISTRICT
Grant, Hidalgo & Luna Counties**

Division	I	Henry R. Quintero	Silver City
Division	II	Gary M. Jeffreys	Deming
Division	III	J. C. Robinson	Silver City
Division	IV	Daniel Viramontes	Deming

**SEVENTH JUDICIAL DISTRICT
Catron, Sierra, Socorro & Torrance Counties**

Division	I	Edmund H. Kase, III	Socorro
Division	II	Matthew G. Reynolds	Socorro
Division	III	Kevin R. Sweaza	Estancia

**EIGHTH JUDICIAL DISTRICT
Colfax, Union & Taos Counties**

Division	I	John M. Paternoster	Raton
Division	II	Sam B. Sanchez	Taos

**NINTH JUDICIAL DISTRICT
Curry & Roosevelt Counties**

Division	I	Stephen K. Quinn	Clovis
Division	II	Drew Tatum	Clovis
Division	III	Ted Hartley	Clovis, Portales
Division	IV	Robert S. Orlik	Clovis,
Portales			
Division	V	David P. Reeb, Jr.	Portales

**TENTH JUDICIAL DISTRICT
Quay, DeBaca, & Harding Counties**

Division	I	Albert J. Mitchell, Jr.	Tucumcari
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**ELEVENTH JUDICIAL DISTRICT
McKinley & San Juan Counties**

Division	I	William C. Birdsall	Farmington
Division	II	Louis DePauli, Jr.	Gallup
Division	III	Sandra A. Price	Farmington
Division	IV	John Arthur Dean, Jr.	Farmington
Division	V	Grant L. Foutz	Gallup
Division	VI	Thomas J. Hynes	Aztec
Division	VII	Robert A. Aragon	Gallup
Division	VIII	Karen L. Townsend	Aztec

**TWELFTH JUDICIAL DISTRICT
Lincoln & Otero Counties**

Division	I	Jerry H. Ritter	Alamogordo
Division	II	James Waylon Counts	Alamogordo
Division	III	Karen L. Parsons	Carrizozo
Division	IV	David I. Rupp	Alamogordo

**THIRTEENTH JUDICIAL DISTRICT
Cibola, Sandoval & Valencia Counties**

Division	I	John W. Pope	Los Lunas
Division	II	George P. Eichwald	Bernalillo
Division	III	William "Bill" Sanchez	Los Lunas
Division	IV	Camille Martinez Olguin	Grants
Division	V	Louis P. McDonald	Bernalillo
Division	VI	Violet C. Otero	Los Lunas
Division	VII	John F. Davis	Bernalillo

DISTRICT ATTORNEYS

First Judicial District Angela R "Spence" Pacheco Santa Fe, Rio Arriba & Los Alamos

Second Judicial District Kari E. Brandenburg Bernalillo

Third Judicial District Susana Martinez Doña Ana

Fourth Judicial District Richard D. Flores San Miguel, Guadalupe & Mora

Fifth Judicial District Janetta B. Hicks Chaves, Eddy & Lea

Sixth Judicial District Mary Lynne Newell Grant, Luna & Hidalgo

Seventh Judicial District Clint Wellborn Catron, Sierra, Socorro & Torrance

Eighth Judicial District Donald A. Gallegos Taos, Colfax & Union

Ninth Judicial District Matthew E. Chandler Curry & Roosevelt

Tenth Judicial District Ronald W. Reeves Quay, Harding & DeBaca

Eleventh Judicial District Robert "Rick" P. Tedrow Division 1: San Juan

Karl R. Gillson Division 2: McKinley

Twelfth Judicial District Diana A. Martwick Otero & Lincoln

Thirteenth Judicial District Lemuel L. Martinez Sandoval, Valencia & Cibola

**STATE SENATORS SERVING IN THE FORTY-NINTH LEGISLATURE
STATE OF NEW MEXICO
SECOND SESSION
CONVENED JANUARY 19, 2010**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan Farmington	William E. Sharer	
2	San Juan	Steven P. Neville	Aztec
3	McKinley & San Juan Tohatchi	John Pinto	
4	Cibola & McKinley	George K. Munoz	Gallup
5	Los Alamos, Rio Arriba & Santa Fe Española	Richard C. Martinez	
6	Los Alamos, Rio Arriba, Santa Fe & Taos	Carlos R. Cisneros	Questa

	7	Colfax, Curry, Harding, Quay, San Miguel, Taos & Union	Clinton D. Harden, Jr.	Clovis
	8	Guadalupe, Mora, San Miguel, Santa Fe Las Vegas & Torrance	Pete Campos	
	9	Sandoval Corrales	John M. Sapien	
	10	Bernalillo & Sandoval Albuquerque	John C. Ryan	
	11	Bernalillo Albuquerque	Linda M. Lopez	
	12	Bernalillo Albuquerque	Gerald Ortiz y Pino	
	13	Bernalillo Albuquerque	Dede Feldman	
	14	Bernalillo & Valencia Albuquerque	Eric G. Griego	
	15	Bernalillo Albuquerque	Tim Eichenberg	
	16	Bernalillo Albuquerque	Cisco McSorley	
	17	Bernalillo Albuquerque	Timothy M. Keller	
	18	Bernalillo Albuquerque	Mark Boitano	
Park	19	Bernalillo, Sandoval, Santa Fe & Torrance	Sue Wilson Beffort	Sandia
	20	Bernalillo Albuquerque	William H. Payne	
	21	Bernalillo & Sandoval Albuquerque	Kent L. Cravens	

	22	Bernalillo, Cibola, McKinley, Rio Arriba Crownpoint & Sandoval	Linda M. Lovejoy	
	23	Bernalillo & Sandoval Albuquerque	Sander Rue	
Fe	24	Santa Fe	Nancy Rodriguez	Santa
Fe	25	Santa Fe	Peter Wirth	Santa
	26	Bernalillo Albuquerque	Bernadette M. Sanchez	
	27	Chaves, Curry, DeBaca & Roosevelt Portales	Stuart Ingle	
City	28	Catron, Grant & Socorro	Howie C. Morales	Silver
	29	Valencia	Michael S. Sanchez	Belen
	30	Cibola, Socorro & Valencia	David Ulibarri	Grants
Cruces	31	Doña Ana	Cynthia Nava	Las
	32	Chaves, Eddy, Lincoln & Otero Roswell	Timothy Z. Jennings	
	33	Chaves & Lincoln Roswell	Rod Adair	
	34	Eddy & Otero Carlsbad	Vernon D. Asbill	
	35	Hidalgo, Luna & Sierra Deming	John Arthur Smith	
Ana	36	Doña Ana	Mary Jane M. Garcia	Doña
	37	Doña Ana & Sierra Mesilla Park	Stephen H. Fischmann	

38	Doña Ana	Mary Kay Papen	Las
Cruces			
39	Los Alamos, Mora, Sandoval, San Miguel, Santa Fe & Taos	Phil A. Griego	San
Jose			
40	Doña Ana & Otero Tularosa	Dianna J. Duran	
41	Eddy & Lea	Carroll H. Leavell	Jal
42	Chaves, Curry, Eddy, Lea & Roosevelt Hobbs	Gay G. Kernan	

**STATE REPRESENTATIVES SERVING IN THE FORTY-NINTH
LEGISLATURE
STATE OF NEW MEXICO
SECOND SESSION
CONVENED JANUARY 19, 2010**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan Farmington	Thomas C. Taylor	
2	San Juan Farmington	James R.J. Strickler	
3	San Juan	Paul C. Bandy	Aztec
4	San Juan Shiprock	Ray Begaye	
5	McKinley & San Juan Crownpoint	Sandra D. Jeff	
6	Cibola & McKinley	Eliseo Lee Alcon	Tome
7	Valencia	Andrew J. Barreras	Belen
8	Valencia	Elias Barela	Belen
9	McKinley & San Juan	Patricia A. Lundstrom	Gallup

10	Bernalillo & Valencia Albuquerque	Henry "Kiki" Saavedra
11	Bernalillo Albuquerque	Rick Miera
12	Bernalillo Albuquerque	Ernest H. Chavez
13	Bernalillo Albuquerque	Eleanor Chavez
14	Bernalillo Albuquerque	Miguel P. Garcia
15	Bernalillo Albuquerque	Bill B. O'Neill
16	Bernalillo Albuquerque	Antonio "Moe" Maestas
17	Bernalillo Albuquerque	Edward C. Sandoval
18	Bernalillo Albuquerque	Gail Chasey
19	Bernalillo Albuquerque	Sheryl Williams Stapleton
20	Bernalillo Albuquerque	James P. White
21	Bernalillo Albuquerque	Mimi Stewart
22	Bernalillo, Sandoval & Santa Fe Cedar Crest	Kathy A. McCoy
23	Bernalillo & Sandoval Corrales	Benjamin H. Rodefer
24	Bernalillo Albuquerque	Janice E. Arnold-Jones
25	Bernalillo Albuquerque	Danice R. Picraux

26	Bernalillo Albuquerque	Al Park	
27	Bernalillo Albuquerque	Larry A. Larrañaga	
28	Bernalillo Albuquerque	Jimmie C. Hall	
29	Bernalillo Albuquerque	Thomas A. Anderson	
30	Bernalillo Albuquerque	Karen E. Giannini	
31	Bernalillo Albuquerque	William "Bill" R. Rehm	
32	Luna Deming	Dona G. Irwin	
33	Doña Ana	Joni Marie Gutierrez	Mesilla
34	Doña Ana Cruces	Mary Helen Garcia	Las
35	Doña Ana Cruces	Antonio Lujan	Las
36	Doña Ana	Andy Nuñez	Hatch
37	Doña Ana Cruces	Jeff Steinborn	Las
38	Grant, Hidalgo & Sierra Silver City	Dianne Miller Hamilton	
39	Grant & Hidalgo	Rodolpho "Rudy" S. Martinez Bayard	
40	Mora, Rio Arriba, San Miguel, Santa Fe Ohkay Owingeh & Taos	Nick L. Salazar	
41	Rio Arriba, Sandoval & Taos Española	Debbie A. Rodella	
42	Taos	Roberto "Bobby" J. Gonzales Taos	

Alamos	43	Los Alamos, Sandoval & Santa Fe	Jeannette O. Wallace	Los
	44	Sandoval Corrales	Jane E. Powdrell-Culbert	
Fe	45	Santa Fe	Jim R. Trujillo	Santa
Fe	46	Santa Fe	Ben Lujan	Santa
Fe	47	Santa Fe	Brian F. Egolf, Jr.	Santa
	48	Santa Fe Santa Fe	Luciano "Lucky" Varela	
	49	Catron, Socorro & Valencia Socorro	Don L. Tripp	
	50	Bernalillo, Santa Fe & Torrance Stanley	Rhonda S. King	
	51	Otero Alamogordo	Gloria C. Vaughn	
Cruces	52	Doña Ana	Joseph Cervantes	Las
	53	Doña Ana & Otero Las Cruces	Nathan P. Cote	
	54	Eddy & Otero Artesia	William J. Gray	
	55	Eddy Carlsbad	John A. Heaton	
	56	Lincoln & Otero Ruidoso	Zachary J. Cook	
	57	Chaves, Lincoln & Otero Roswell	Dennis J. Kintigh	
	58	Chaves Roswell	Candy Spence Ezzell	

59	Chaves, Lincoln & Otero Roswell	Nora Espinoza	
60	Sandoval Rio Rancho	Jack E. Thomas	
61	Lea Lovington	Shirley A. Tyler	
62	Lea	Donald E. Bratton	Hobbs
63	DeBaca, Curry, Guadalupe & Roosevelt Santa Rosa	Jose A. Campos	
64	Curry Clovis	Anna M. Crook	
65	Bernalillo, McKinley, Rio Arriba, Jemez Pueblo & Sandoval	James Roger Madalena	
66	Chaves, Eddy, Lea & Roosevelt Roswell	Keith J. Gardner	
67	Curry, Harding, Quay, Roosevelt, Tucumcari San Miguel & Union	Dennis J. Roch	
68	Colfax, Guadalupe, Mora, San Miguel Ocate & Taos	Thomas A. Garcia	
69	Cibola, McKinley & San Juan	W. Ken Martinez	Grants
70	San Miguel & Torraine Ribera	Richard D. Vigil	